

Election: Timothy Crouse, David Halberstam, J. Anthony Lukas, Joe McGinniss, Richard Reeves, Nora Sayre and Roger Wilkins

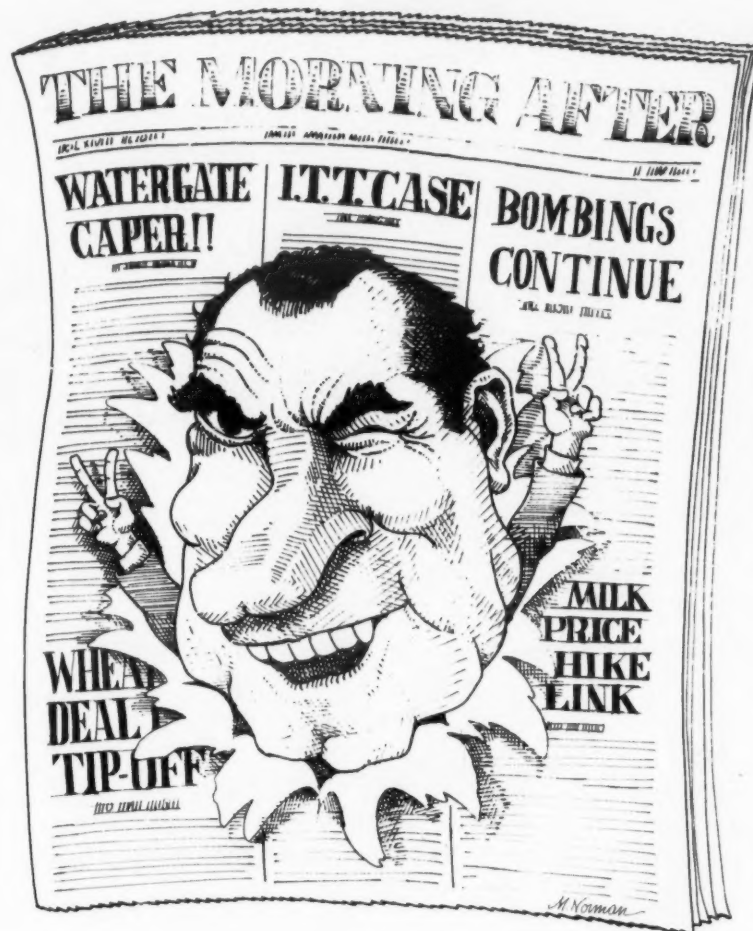
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A Journalism Review

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**Dec.
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75'**

Underneath the Nixon Landslide

Editor's note: The conventional wisdom of both politics and journalism in the United States holds that if the press properly informs the public, the public will respond by making the right basic decisions. With the re-election of Richard Nixon in the wake of Watergate, ITT, the grain and milk scandals and a four-year prolongation of the war in Vietnam, (MORE) asks the question: Who has failed, the press or the public?

BY NORA SAYRE, author of the forthcoming *Sixties Going on Seventies*.

Consider the dressing table. Whoever thought of putting skirts on kidneys must have had something awfully wrong with him. But it was a successful product. And that's the kind of incongruity which the public has had to face of late: such as Nixon being a friend of the Soviet Union. Hence reporters have a much tougher job than they did under LBJ, who was quite easy to explain to the public. Since political astuteness now amounts to keeping the voters confused—peace now but not yet—I think that the press made a respectable effort on the war and Watergate and the rest.

Of course we know that the power of the pen is comparable to the power of the penny. Publishing a piece on politics is about as effective as hurling your typescript into the nearest trash basket. But before we revile the groggy electorate, or renounce our professions, let's peel back the band-aids on our psychic wounds: which are the same for the press and the public. Under Johnson, belief disintegrated like an old shower curtain, and the mistrust will probably last a lifetime. (Perhaps we can't believe good news any more.) But fact is also a victim of disbelief: ugly news which happens to be true becomes easier to reject or ignore. I think that's why Watergate had no impact.

It's too easy to say that the American people don't care, which was the refrain in my local delicatessen (buying a sandwich after the election was like attending a suicide's funeral; my drugstore was the crematorium), or that infinite voters thought that if they themselves had enough money, nothing could be wrong in the USA—although the latter was certainly one of Nixon's successful strategies. But we have to keep returning to the GOP's intelligence in keeping contradictions on the boil:

as when the White House proposed a guaranteed annual income, then later de-balled the program, then finally killed it. Each step was designed to reassure white voters: we'll pay off those people who frighten you, / well, we'll trim their privileges, / no, we won't actually use your earnings to enrich them for their laziness . . . The Public remembers only what it heard last, and the press has to try to be clear about confusion. Meanwhile, in Nixon's America, words and actions are growing further apart: as in Canarsie, where some chanted "Nigger, nigger" while white parents insisted to reporters that the uproar had nothing to do with race—it was simply a matter of decentralization . . . Somehow we have to work at connecting words and facts again, though I don't have the exact recipe in my reticule today. But as long as Nixon can go on evoking the spirit of little Wanda, or Sonia, whoever that Czech child was, piss with honor will be very hard for the public to understand.

Yes, the press tried hard in '72, and many were conscientious in recording bad (and infuriating) news from their own side. But there was a dollop of the old liberal deathwish too: all those post-mortems on McGovern's defeat that were published the week before the election—which could have run a few days later. And while polls have to be reported, I think that the way they were stressed in the press this year was truly disgraceful. Polls knock the gumption out of campaigners, weakening their confidence and performance; polls also made some feel that their vote was meaningless, useless. I know some who didn't get to the booths for that reason.

BY RICHARD REEVES, *New York* magazine political writer.

Failure? I had the impression this year that we were dealing with perhaps the best informed electorate in the history of the world. Mark that down as

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(HELLBOX)

Rosebuds to the CBS Evening News for breaking with tradition to alter its bulletin format from time to time to make room for lengthy reports of major importance. In the past, topics such as those listed below either would be touched on superficially (if at all), broken up into small segments lacking impact or relegated to "specials" requiring sponsors and reaching a fraction of Cronkite's audience of 17 million people. Paul Greenberg, who became producer of the show at the beginning of October, insists there was no major policy decision to give the news more depth. "We just weren't satisfied with the dribs and drabs—two-and-a-half minutes here, four-and-a-half minutes there," he says. "We felt that certain issues deserved more time." Substantial impetus is said to have come from Cronkite himself. In chronological order, these were the issues covered in recent weeks:

- The wheat scandal or so-called "great grain robbery": a two-part series (11 minutes and 8 minutes), produced by Stanhope Gould and Linda Mason.

- The Department of Housing and Urban Development's high-rise program: a seven-minute report produced by Gould and Roger Sims, with reporter Richard Threlkeld, in conjunction with the *St. Louis Globe Democrat*. The package showed how HUD plays "nursemaid to private enterprise" by picking up payments on defaulted mortgages while investors reap huge tax windfalls on depreciation of their buildings.

- The failure of the Nixon welfare program: a 12-minute analysis, produced by Sam Roberts and Jim Clevenger, with reporter George Herman, of the Congressional battles over the trumpeted family assistance program introduced by the President in 1969. While the report avoided placing the blame squarely on any one of the principals, it untangled the complicated machinations of the liberal and conservative factions and suggested that the bill died at least partly because the White House sensed a change in the political climate.

- Watergate: a two-part series (22 minutes and seven minutes), also produced by Stanhope Gould, with Sam Roberts and Linda Mason, and correspondents Dan Rather and Daniel Schorr. Like the other reports, the series drew heavily on published material. Its chief virtue was in giving the scandal the CBS imprimatur so that it could no longer be dismissed as fiction disseminated by an ax-grinding *Washington Post*.

Indeed, the White House was quick to respond—with a phone call to CBS executives from Charles Colson, special counsel to President Nixon. Regrettably, CBS acceded to the pressure and forced the Cronkite staff to water down the second part of the report. This segment, which was to have traced in detail the laundering of the money in the secret fund, was cut back from 15 minutes to seven. What was left was a quick rundown by Schorr, lacking the meticulous explanations that characterized the grain reports. (One reason for the network's timidity is said to be threats from the FCC to force the networks to curtail re-runs. CBS would be the hardest hit if such a policy were implemented.) Shortly after the elections, Colson accused CBS (and the *Post*) of "McCarthyism" for reporting the Watergate scandal.

In addition to presenting these reports, the CBS Evening News tried during the final week of the campaign to clarify some of the differences between the candidates on significant issues. But while noting that these issues had been for the most part ignored, Cronkite failed to mention television's role in shaping the campaign. ("This was to have been the year of the clear choice," he pointed out during the first report. "It hasn't turned out that way. It's been a contest based on personalities, of charge and counter-charge, a campaign of innuendo and mudslinging." He never said why.) With the exception of a seven-minute examination of the candidates' positions on the economy, the reports were disappointing. Moreover, the Vietnam segment was dropped, allegedly because of changing developments in the peace negotiations.

Still, the trend at CBS is encouraging. One of the great failings of television news has been the requirement that a show "move," that is, eschew "talking heads" and subjects that call for thorough, seldom dramatic explanation instead of visually stimulating film. Changing the pattern could turn off viewers, but for now, the network is apparently willing to take that risk.

Congratulations!

The lone picture on page one of *The Cincinnati Enquirer's* election extra November 8 bore the headline CONGRATULATIONS! over a caption that read: "Two of the first persons to congratulate President Nixon and Vice President Agnew on their overwhelming victory in Tuesday's election

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In the Public Interest?

BY EDWIN DIAMOND



Part of the tidal flow of news, headlines like those above rolled from east to west across the United States earlier this year. In general, the story made page one or the nightly television news. Then, the commentators and editorial writers splashed it around a bit, noting that Fair Authoritative Harvard had found that black children transported to white schools didn't do significantly better academically than they had before; moreover, the black children became more hostile to white people. Thus, a "fact" seeped slowly into the great sponge of the public consciousness: busing, that panacea of pointy-headed liberals, doesn't work, just like the Guv'nor and Dick said.

On the surface, there was nothing very remarkable in this sequence; over the years waves of "news" of varying quality and pollution levels have washed over the public mind and slowly built up "facts" and views, like coral reefs. In this case, however, the tide carried some contaminants more poisonous than normal. There was no "Harvard" study, only one young research assistant's essay; there was no "evidence" that busing had "failed," just some highly selective data. And, of course, the rebuttals, amplifications and serious qualifications that the story eventually produced never quite caught up with the initial "news".

In a year of doleful performances by the media, the coverage of school integration epitomized by the "Harvard busing study" is one of the sadder underachievements. Indeed, a case can be made that school busing was perhaps the most shamefully covered story of the year. Sampling after sampling of voter opinion—during the Florida primaries when Governor Wallace was still a candidate, in the Harris and Gallup polls during the presidential campaign—showed that busing ranked far down on every list of voter concerns, well behind the real issues, such as they were, of Vietnam, taxes, high prices and the economy. Even Richard Nixon's calculated efforts to flog the busing issue to life (in a rare news conference in early October, Nixon declared, straightfaced, that busing and amnesty were the two major domestic issues of the campaign) failed to stir much voter response.

True, when people were asked in a Florida referendum whether they favored compulsory busing for purposes of racial balance, the vote ran four to one against busing. And true, busing was a major emotional issue in Michigan, where the candidates for U. S. Senator each tried to out-hardline the other. But it is also true that the same Florida voters voted four to one in favor of the proposition, "Quality education should be available to every child. . ." And Michigan parents who displayed "This Family Will Not Be Bused" stickers on their front doors also answered in the same way. The *New York Times*/Yankelovich poll, taken October 1-10, showed that only 13 per cent of Michigan voters interviewed thought busing was a major issue (the figure for the war was 47 per cent; the economy, 29 per cent). There are some quick and easy explanations for this contradictory behavior: most people aren't consistent in their political beliefs, and many undoubtedly harbor racist attitudes. But it also appears that the media have contributed in a significant way to the national

schizophrenia. This, at least, seems a fair conclusion based on the handling of the Harvard busing study.

The principal actor in the "busing fails" story is David Armor, 33, until recently a statistical researcher at Harvard and a former student activist at Berkeley. Working at the Harvard Graduate School of Education, Armor had studied for a time Boston's METCO program, which has been busing black children of all age levels to predominantly white, middle class schools in the Boston suburbs since 1966. In order to study the effects of integration on the academic achievement of black children, Armor analyzed some METCO data as well as the work of other researchers in five northern and western cities—White Plains, N.Y.; Ann Arbor, Mich.; Riverside, Calif; and New Haven and Hartford in Connecticut. Armor's stated purpose was to examine the social science research data that, Armor said, had been used to support the policy decision to integrate public schools by busing. Sociological and psychological studies, Armor declared, have provided the "legitimacy" to sustain the forces behind desegregation, from the Supreme Court ruling of 1954 to the Civil Rights Act of 1964 to the federal busing orders of 1970. (The reader could start his argument with Armor right here: moral considerations, as well as social science findings, have played a role in the integration movement; but each specialty is entitled to its illusions.)

In examining the performance of black children in white schools, Armor was going over some familiar ground. In the mid-1960's, the Coleman Report—after its chief author, Prof. James Coleman of Johns Hopkins University—had pointed out that the classroom experience in itself could do relatively little to close the academic achievement gap between poor, ghetto blacks and white children from middle class homes. More recently, the studies of Christopher Jencks at Harvard have been developing the similar common sense point that a public school education is only one of several factors—and not a very critical one—that determine financial success later in life.

Armor, in his own work, said he found that the METCO black children showed indifferent academic achievement and lower grades and had become more "separatist" and intolerant of whites. The black children also appeared to have lower "educational aspiration levels"—that is, not as many wanted to go to college—than a similar control group of non-bused students.

In a slightly less mad time, such information could certainly be taken in stride by the citizenry. The years of the METCO study, after all, were the middle and late 1960's—the years of Newark, Detroit, Watts, Martin Luther King's assassination, the Black Panthers, the rise of George Wallace and the election of a "southern strategy" president, among other events hardly calculated to encourage black concentration on grades and tolerance in the classroom. But to squeeze out this mild indictment of busing, Armor had to labor mightily and, as it turned out, quite dishonestly.

Armor first vetted his material in a seminar at the Harvard education school and in a chapter of *On Equality of Educational Opportunity*, edited by Frederick Mosteller and by the ineffable Daniel Patrick Moynihan, then recently returned to Harvard from his service as

intellectual to Richard Nixon. Armor's long, footnoted essay elaboration of this material was duly submitted to the *Harvard Educational Review*, which in recent years has become the accepted and authoritative forum for school integration-desegregation research. The *Review* turned down the article. Armor and his partisans claim that the essay was rejected for "political" reasons—specifically, pressure from the liberal educational-sociological establishment, and in particular Harvard Professor Thomas F. Pettigrew. The liberals, so the Armor argument goes, don't want the "facts" of busing's "failure" known by the public.

Armor's pose as the pure scientist taking on the educational liberals proves to be rather shaky. Professor Pettigrew and three of this associates found no fewer than fourteen different methodological shortcomings, distortions and just plain biases in the Armor work. Most are too lengthy and technical to be cited here, but three bring home the point:

Unrealistic standards for judging the effects of "busing" and school desegregation are advanced in the article. "Busing" fails if all interracial schools regardless of their other characteristics do not lead to enhanced achievement, aspirations, self-esteem, interracial tolerance, and life opportunities for black American children in from seven months to a few years. These criteria must surely represent the most rigid ever employed for the evaluation of a change program in the history of public education in the United States.

A biased and incomplete selection of studies is cited in the article. The entire South, where most of the court-ordered transportation for desegregation occurs, is arbitrarily excluded from consideration, though this critical exclusion is not indicated in either the article's title or its sweeping policy conclusion against "mandatory busing." More important, the article ignores at least seven "busing" studies which fully meet its methodological criteria for inclusion.

Biased and incomplete descriptions are provided of the few studies discussed. Even of those studies cited which purport to show unfavorable effects of "busing," there are important facts that are not presented. For example, there is no mention that educational services for the transported black pupils in three of the cities were reduced with the onset of desegregation.

But if the *Review* was convinced by reasons such as these that Armor's work was too shoddy to be accepted, there were others quite willing to broadcast his conclusions. One was *The Public Interest*, a quarterly edited by Daniel Bell and Irving Kristol. Another was the columnist Joseph Alsop. And a third was a young reporter named Lawrence Feinberg of *The Washington Post*. In at least two of these cases, Nixon's man Moynihan apparently played a role in getting Armor publicized. At Moynihan's suggestion, Armor sent drafts of his work to *The Public Interest*. Co-editor Kristol is another favorite White House court intellectual, one of the grizzled ideological watchdogs of the Old Left who has found Nixon so congenial that he signed a full-page ad in the Sunday *New York Times* urging the President's re-election. An editor at *The Public Interest* affirms that the quarterly decided to publish Armor's study "because it was being boycotted and because it had a ring of authenticity from common sense and observation." The editor adds, somewhat airily, "I do think Armor can be faulted to some extent to reference to strict methodological canons. . ."

The Armor piece was scheduled to appear in the Summer 1972 issue of *The Public Interest*. But in early spring, Joseph Alsop got hold of a draft. "Oh, I don't remember how," he says, cheerfully, "but you know that I've been writing about integration for years." Alsop, in fact, has been a knowledgeable proponent of the MES—More Effective Schools—concept, rather than of busing. So it would make sense for Moynihan to get him a copy of the Armor study. Alsop's column is distributed by The Los Angeles Times Syndicate to some 250 papers. This column on Armor was headlined HARVARD SWALLOWS HARD in *The Washington Post*. Alsop was judicious in tone: Nixon's anti-busing stand "gave off a strong not very appetizing smell of election year politics. . ." The 1954 Supreme Court desegregation decision had "courageously and rightly pointed a new road. . ." "Everyone mourned the tragic educational retardation affecting the average ghetto child. . ." Nevertheless, the "liberal academic educationalists" at Harvard, who had been influencing desegregation policies for so long, were now swallowing their own words—and giving significant implied support to the President's anti-busing stand. The biggest contribution to this pro-Nixon support, as Alsop saw it, came from the Armor study. To the liberals who want a solution to the "central problem of black

educational retardation," Alsop wrote, Armor has the authoritative "hard, unpleasant statistics" showing that busing makes no difference.

Lawrence Feinberg, a recent Harvard graduate, did some hard swallowing when he saw the Alsop column. He too had been given a draft by Armor, but with a request not to run it before *The Public Interest* publication date. When Feinberg saw that he had been scooped by Alsop in his own paper, he called Armor in Cambridge. According to Feinberg, Armor told him that Alsop had misinterpreted his work and that he was writing a letter to the editor of the *Post* in protest. (In his naivete, Armor said nothing about reaching the other papers that ran the Alsop column.) Armor then supplied Feinberg with a "later draft" of the essay, and the young reporter prepared his own "busing fails" article.

The Feinberg piece, however, got caught in the strong cross-currents of the *Post*'s intramural politics. According to Feinberg, the education editor didn't think there was much of importance in the Armor work, but another editor, known as a "hard-nosed" man, was interested. The story remained snagged until a *Boston Globe* reporter called the *Post* late in the week of May 15, and offered them his carbons of a "hot" anti-busing story he had been working on, in hopes of getting more attention for his efforts; Armor, his photocopying machine working overtime, had also supplied the *Globe* reporter, John Wood, with a draft of his essay. The *Post*, upon learning that the *Globe* was going to "break" the "big story" first, reacted predictably. The piece that had been held up for weeks was quickly pushed in. Feinberg's story, STUDY CASTS DOUBT ON BUSING, appeared across three columns on the bottom of page one of the Sunday *Post*, May 21.

In a year of doleful performances by the media, the coverage of school integration epitomized by the "Harvard busing study" is one of the sadder underachievements.

At the same time, The Washington Post-Los Angeles Times News Service sent Feinberg's piece to more than 200 domestic newspaper clients, who, according to the service's editor, Robert Keith, played it very well. John Wood's story also received good play when it broke the next day (May 22) in the *Globe*. According to Oscar Cohen, national director of the Anti-Defamation League of B'nai B'rith in New York and a close watcher of integration coverage, some 200 newspapers carried the first stories. *Time* magazine further promulgated Armor's shaky research with an education story in its June 5 issue headlined, WAYWARD BUSING. The piece summarized the *Post* and *Globe* material and added some interview quotes from Armor.

In New York, editors at the *Times* asked Robert Reinhold, their man on the Cambridge "intellectual ideas" beat, for a story. Reinhold, coming back from an out-of-town assignment and pressed by his desk's demand for a quick *Times* version, had to scramble to get a copy of the Armor draft from the Harvard PR office (the office had laid in a supply of drafts when its phone began ringing that Monday morning, May 22). The *Times*' May 23 story, Reinhold acknowledges, was "done in haste and not the way I like to work. . ." It was, says Reinhold, "one-sided" in that it reflected only Armor's views.

Other news organizations, however, had the good sense to try for some balance. In California, for example, The Associated Press checked with the superintendent of schools and others in Riverside, California, one of the cities that Armor had studied. As a result, the AP ran a story on May 24 that, evenhandedly, gave the Armor thesis and the actual Riverside experience. In Riverside, the story said, the busing program had started disappointingly but after six years of growth and change in the program many black and brown children were doing as well as Anglo children academically, and "racial friction had eased considerably"—findings in conflict with Armor's own conclusions.

All these stories were part of the well-known "comeback" effort in competitive journalism—the attempts of those beaten on a story to scramble back into the race with their own "new angle." At the *Times*, there was a second comeback two weeks later. After some heat was felt from Harvard and elsewhere because of the unquestioning acceptance of the Armor essay, Reinhold's second story, datelined June 7, led with the reaction, largely adverse, to the initial Armor story; it quoted Professor Pettigrew at length as he took up various of Armor's contentions. The *Times* piece also quoted Armor, who maintained, in an *ad hominem* tone eerily like Alsop and Moynihan and other "hard-nosed" Nixonians, that while he himself was for integration, "the burden of proof is on those who are arguing we have to reconstruct our whole society."

By early June, editorial comment was surfacing all across the

country. In Richmond, Va., for example, the conservative *Times-Dispatch* and *News-Leader*, ran no fewer than three editorials within days of each other: **BUSING FAILS** (on Armor's report); **MORE PROPAGANDA** (on a U.S. Civil Rights Commission Report that had reached different conclusions from Armor), and **HARVARD'S TRUE RELIGIONISTS** (on those who had spoken up against the Armor essay). The editorial reaction was similar in the Hearst papers (**SECOND THOUGHTS** was the head on a lead editorial quoting Armor in the *Los Angeles Herald-Examiner*), and, interestingly, in New York's black-oriented *Amsterdam News*, where executive editor Bryant Rollins wrote approvingly of Armor's "hard data." The Armor study, Rollins argued, had destroyed "the myth of integration." Indeed, he concluded, Armor's findings supported what many black nationalists had been saying all along: blacks should develop their own separate, all-black schools.

In mid-June, Armor and his supporters told at least one reporter that burglars had broken into his office and removed some of his research data. Actually, the "intruders" were his colleagues, the material was owned by several people and Armor had extra copies at home. The media, however, had a new "issue": a bright, young researcher, pursuing only truth, was in turn being pursued and beleaguered by older, more powerful educationalists. Well, Armor's findings might be upsetting to the evil old liberals of the Establishment, but he would—shades of Simmelweiss—stand by his work.

In a gravely measured editorial on July 5, the *Times* took up this "civil rights" case. First, the *Times* summarized Armor's "findings"; then it accepted as fact that Armor's office had been "illegally" entered and concluded: "Efforts to suppress the survey and to discredit [Armor's] motives simply because the published findings run counter to the academic community's ideological preferences are an affront to the principle of free inquiry and intellectual integrity." After the editorial appeared, Pettigrew wrote John B. Oakes, editor of the *Times* editorial page, a letter that said no known evidence existed to support the *Times*' "grave charges." Pettigrew says the *Times* neither acknowledged his letter nor ran it.

By this time, Armor had been awarded celebrity status by the media. He was interviewed on several radio and television shows. He gave a deposition to lawyers for suburban schools systems outside Detroit who were opposing a city-suburb desegregation plan. Roy Innis of CORE said Armor was "right on." Julie Nixon Eisenhower told the television audience on the Mike Douglas Show: "I read Professor Armor's study and it's right." And Michael Kramer, writing in *New York* magazine on Julie's father's plans to ride the busing issue, reported in early August:

A new study highly critical of the educational benefits claimed for school integration generally, and school busing in particular, is causing ecstasy in the Nixon camp. "Used properly," says a Nixon aide about the paper by Harvard sociologist David Armor, "this study legitimizes our opposition to forced busing and removes it as a political judgment. We can now show that busing doesn't work—on the merits."

Armor's star status also affected how the busing story was presented in the continuing news accounts. The real busing issue—the psyche of white and black children, the formation of racial attitudes, test scores and what they really signify, alternative approaches to formal classroom instruction, in short, all those messy interactivities of contemporary education—receded into the background. The "story" now was the rivalry between two academics: Pettigrew vs. Armor, teacher vs.

student, orthodoxy vs. anti-establishmentarianism. In *The Washington Post*, Feinberg built up a "personality clash" story. This second piece led by saying that the Armor study "has stirred bitter controversy at Harvard . . ." and went on to note that "Armor's office is only two doors down the hall from Pettigrew's and the dispute between the two men is tinged with bitterness. Until the new study, Pettigrew said, 'we had been close friends for many years'."

When Pettigrew read the *Post* story he observed: "The issue is not whether we like each other. What difference does that make? What the press should be writing about is what is correct and what is false about busing . . ." Feinberg's second story, of course, was also distributed by the *Post*/L.A. Times news service, thus once again supplying the Armor thesis to any clients who might not have accorded sufficient play to the original story (*The Houston Chronicle* gave this second article an eight-column headline, **INTEGRATION BY BUSING DOESN'T AID BLACKS, STUDY CLAIMS**).

By late July, the **BUSING FAILS** tide had still not run its course. The summer issue of *The Public Interest* finally went into the mail to some 6,000 subscribers—and Armor was back on page one again, a record of sorts for a pedantic quarterly. In Denver, for example, *The Rocky Mountain News* assigned staff writer Keith Mitchell to summarize the Armor essay, using the publication date of *The Public Interest* as the peg. By then, Armor had left Cambridge for a job at UCLA (the best information is that Harvard's decision not to offer a new contract and tenure to Armor occurred in advance of the original seminar). But the "Harvard Study" story was firmly fixed in the public consciousness. Oscar Cohen of the ADL noted: "It's been seized on by the opponents of busing and desegregation all over the country to further their cause. It's just devastating."

Academics like Pettigrew, who are by no means unsophisticated about the media, still wonder: why the grand reception for Armor? But journalists will recognize some of the all too familiar bad habits of their trade: the scuffling to make page one; the desire to keep ahead of the *Times*; the near universal reverence for certain recognized authority ("if we can hang it on Harvard, we're okay"); the skewed definition of "news" that prevents the rebuttal from catching up with the charge; the 1920's conviction that all stories must be "personalized," that almost every subject can be stretched across a form labeled "bitter controversy." Journalists will also recall some of the steps that the better news organizations have taken to protect their readers from false news: the creation of specialists on education, science, medicine, urban affairs, who try to keep up with a given field, know the proper journals and the referee system of publication, who have built up a network of sources and, in general, have a feeling for what is going on. In this instance, some of that protection broke down.

Protective arrangements against false news are especially needed when politicians have an interest in getting a line across to the voters. Certainly, scientists have a right to pursue the work they want to. They should call 'em as they see 'em; if busing doesn't "work" according to certain explicit standards of measurement, then we expect our experts to tell us. And if the expert opinion, duly refereed by other specialists and published in the commonly accepted professional journals, calls 'em one way, it is the journalist's duty to report that call, no matter what his or her personal preferences may be. But when a minor statistician on the basis of selective cases makes a faulty argument that appears in a highly politicized magazine, and when this obscure essay is played by the media as if they had found some secret White House document, then we are a long way from honest journalism. We have enough academics playing toady to the powerful without the media joining the sychophant's chorus.

Substantiating the 'Permissible Lie'

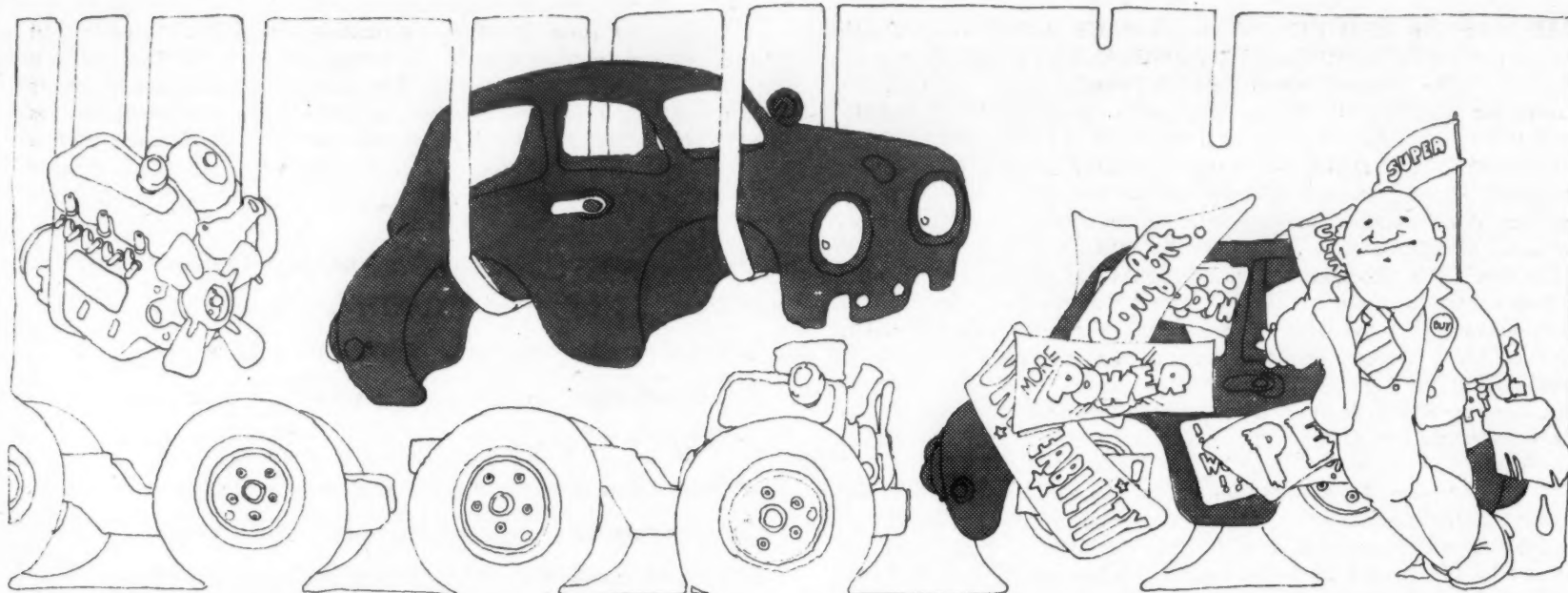
BY VICTOR S. NAVASKY

On the surface, you can't really blame an editor for not turning over his front page to something called "Staff Report to the Federal Trade Commission on the Advertising Substantiation Program Together With Supplementary Analysis of Submissions and Advertisers' Claims Prepared by Hon. Frank E. Moss, Chairman, Consumer Subcommittee, Printed at the Direction of Hon. Warren G. Magnusen, Chairman, for the Use of the Committee on Commerce, United States Senate, July 31, 1972."

It's a shame. Because the report documents in devastating, shocking and sometimes hilarious detail the FTC staff's contention that some of the nation's largest and most prestigious manufacturers (including General Electric, General Motors, Ford and Westinghouse) and/or their agencies, are guilty of deceptive advertising. If that's all it did, the FTC

report would be good reading but nothing new, since it takes no Columbus of Consumerism to discover that advertisers have a tendency to exaggerate. What distinguishes the FTC's new study, however, is its systematic documentation. Out of the first 282 advertising claims for which the FTC requested proof (claims made in 1971 for certain cars, television sets, electric shavers and air conditioners), the manufacturers were able to document only 40 per cent in a way that satisfied the commission's staff. Since the FTC chose the advertisers in question more or less at random (in the sense that there was no prior reason to regard any of their ads with particular suspicion) one must infer that such dubious advertising practices may be the rule rather than the exception.

Item: Ford's sole support for the claim that its Pinto "never



needs waxing" was the assertion that: "Ford believes that paints that meet [its] stringent requirements are capable of maintaining an acceptable appearance for an extended number of years."

Item: Nissan's sole support for the claim that 1971 Datsuns' dual hydraulic breaking system is "failsafe" were tests conducted on two 1968 model 510 Datsuns. "No data was submitted concerning the performance of the 240-Z or 1200 models or of any 1971 models," the report says.

Item: Fedders' sole support for its claim that a particular model air conditioner alone had "extra cooling power" was zilch. It didn't, and Fedders agreed not to repeat the claim in future advertising.

Item: Philco-Ford, which had advertised that its portable television "doesn't take a back seat to any set when it comes to picture perfect power," stated in its report that its receiver is "high in brightness" compared with other 12-inch models and "rates in the top 20 per cent of all sizes" for brightness. No documentation was submitted in support of the 20 per cent figure.

Item: Schick "substantiated" its claim that one cannot get a cleaner shave than with a "Lite Touch" shaver by reporting, "We have not conducted an opinion survey, but have informally questioned a number of people as to the meaning of a 'clean' shave and the results support our position."

Yet, when the FTC staff report summarizing this morass (4,200 pages in all) of for-the-most-part misleading or incomprehensible material submitted by the advertisers was released last July, the press (if we may take *The New York Times*, which ran something on page 42, *The Washington Post*, which put its story on page three of its second section, and *The Wall Street Journal*, which didn't run anything, as representative of the press), downplayed what one would have thought was the main point of the story—that Ford, GM, et. al. had probably lied, or at a minimum had failed to substantiate their ads, and tried to cover up this failure in a surplus of technical *non sequitur*.

It was not that the media (the report received even less coverage outside those three papers) did not appreciate the importance of the ad substantiation story. Indeed, when the FTC announced on June 10, 1971, in a press release headlined, COMMISSION RESOLUTION REQUIRES ADVERTISERS TO FURNISH IT ON DEMAND DOCUMENTATION FOR CLAIMS, the *Times* and *Post* thought the story important enough to feature on page one, and the *Journal* ran 18 column inches on page two. FTC TO ORDER INDUSTRIES / TO SUBSTANTIATE THEIR ADS, proclaimed the *Times*. FTC TO INSIST AD CLAIMS BE PROVED, headlined the *Post*. FTC TO REQUIRE PUBLIC PROOF OF AD CLAIMS, was the *Journal* head, subtitled, "Unprecedented Action Falls / Just short of Nader Idea / But May Have Big Impact / Auto Firms Initial Targets."

All of the stories explained that the FTC, acting in response to a petition submitted by consumer advocates Ralph Nader and Aileen Adams Cowan, had unanimously adopted a resolution that would, as the *Post* put it, "ask advertisers to submit to the agency any tests, studies or other data to support claims made about the safety, performance, efficacy, quality or comparative price of the product." The stories went on to say that any data submitted, except certain confidential information, would be made public, that the auto companies would be the first ordered to prove their advertising claims, and that a major purpose of the FTC requirement would be to help consumers distinguish "between the seller who is advertising

truthfully and one who is unfairly treating both consumers and competitors by representing. . . that it has proof when in fact it has none or the proof is inadequate."

Not only that, but when on July 13, 1971, the FTC announced orders to require seven auto manufacturers (General Motors, Ford, Chrysler, American Motors, Volkswagen, Toyota, Nissan) to furnish within 60 days documentation for 75 specific ad claims, again the next day *The New York Times* (FTC BIDS AUTO MAKERS VERIFY 60 CLAIMS IN ADS) and *The Washington Post* (CAR FIRMS ORDERED TO PROVE ADS) saw it as front page news: and the *Journal* (CAR MAKERS ORDERED TO PROVE AD CLAIMS AS FTC OPENS DRIVE), although it put the story on page 14, gave it seven column-inches and made the point (omitted from other accounts) that any company that failed to respond would be fined \$100 a day.

Moreover, the subsequent failure of the press to front-page or even headline (on whatever page) the substance of the July 31 report cannot be attributed to a paucity of important, if not sensational, material. In their stories of July 14, 1971, all three papers cited identical twin examples of the sort of claims auto manufacturers would be expected to document, and because all three papers used those examples in their lead paragraphs it seems fair to assume (whether or not the examples were provided by an adroit briefing officer) that they were deemed especially newsworthy, and that if the manufacturers turned out to be guilty as not-yet-charged, that would be even more newsworthy. Specifically, the papers referred to Ford's claim that its LTD was "over 700 per cent quieter" and General Motors' claim that its Chevrolet Chevelle included "109 advantages to keep it from becoming old before its time."

When the auto makers turned their data in, it turned out that test reports comparing the LTD's quietness with that of "some of the world's most expensive cars" were six years old and consisted of comparative tests between two used 1965 Fords and five used 1965 Rolls Royces, as well as tests comparing new 1966 LTD's with nine used European touring cars. The LTD's "700 per cent quieter," it seems, had to do not with being quieter than other cars, but rather with it being quieter inside than outside the LTD. And as for the "109 advantages" designed to keep Chevrolet Chevelle from "becoming old before its time," they included anti-pollution and safety features (such as backup lights) already required by law and some items of standard equipment (automatic choke, outside rearview mirrors, balanced wheel and tires, etc.) not to mention such "advantages" as "a full line of models."

How then and why did the press miss the story? Why did its headlines fail to reflect the report's substance and why was its coverage insufficiently analytical to suggest that much of the advertising upon which Americans based perhaps their most costly 1971 buying decisions was less than the truth?

At first one assumes that in the crush of deadlines there was not enough time to analyze the very technical data the companies submitted, but that turns out not to be the case. The auto industry data (although the examples which follow are limited to auto ads, the analysis applies to the whole program) was first made available for public inspection on October 13, 1971, some nine months before the FTC staff report was released by Senator Moss. On October 14, 1971, both the *Times* and the *Post* covered that story, and both pieces mentioned the Ford and GM submissions on the LTD and Chevelle. But instead of front-page headlines like FORD FIBS or GM ADS DON'T AD UP or DATSUN DISSEMBLES, neither paper attempted to evaluate or characterize the material, and what we got was

CAR MAKERS GIVE FTC/DATA TO BACK ADVERTISING (the *Times*, p. 89) and FTC AIRS/AUTO FIRMS'/AD DATA (the *Post*, p. 6).

The *Journal*, which took the most time for analysis (on December 6, 1971, it ran a long piece headed AUTO FIRMS' DOCUMENTATION OF AD CLAIMS/FOR FTC LEAVES MOST READERS IN THE DARK) had the most negative things to say about the program. The dominant theme was not the contradiction between advertiser-"documentation" and advertiser-claims, although the *Journal* story included examples of these, but rather the difficulty of the material itself. "The auto ad documentation went on display last week at FTC regional offices around the country," the article said, almost two months after the documentation was available in Washington. "Very few people showed up to take a look. Except for automotive engineers with legal backgrounds and lots of time on their hands, they needn't have bothered. The documents shed a little light on the genesis of advertising claims, but are likely to leave most readers in the dark about the merits of the cars being advertised."

A second hypothesis would be that the *Journal* article was right—that the material is too technical for the layman and/or an average or even superior reporter to master without technical assistance. Indeed, when FTC Chairman Kirkpatrick appeared before the Subcommittee on Consumers of the Senate Commerce Committee on May 16, 1972, he turned over to it an FTC staff report which indicated that while of the 75 auto advertising claims studied, 13 lacked any empirical data to support the claim, and the data submitted for 21 claims was "incomplete," "approximately 43 per cent of the responses—32 claims—could not be evaluated by the staff without expert assistance." And that was the theme played by the press. Again, the *Journal* found no news worthy of reporting, but the *Times* and the *Post* headlined the difficulty of the data rather than the revelations it contained. FTC FINDS MOST AD DATA DOUBTFUL OR TOO TECHNICAL was the *Times* head; TOO TECHNICAL FOR CONSUMERS? asked the *Post* head, which was topped in bold type with a quote: "Almost a third of the substantiating material submitted was 'so technical' that 'special expertise' is required for evaluation. In fact, the FTC has sent some of the data out to independent sources for analysis."

The only trouble with this hypothesis is that it ignores the non-technical 57 per cent of the data. No engineer is required to discover that the small print in Toyota's test report shows that it used a 1969 car instead of a 1970 car to prove its claim that the 1971 Corona had better brakes than the 1970 model. No engineering expertise is needed to question the ad for the 1971 Dodge Dart, citing owner testimonials, which claimed that the car gets 20 miles per gallon. Chrysler Corporation's "supporting" materials (a) included none of the testimonials; (b) included a magazine article showing that among Dart owners 70 per cent got less than the advertised mileage, and (c) did not include anything on the *Consumer Reports* finding that, on a 300-mile trip, a Dart got 18 miles per gallon. No expertise of any sort seems necessary to see that Ford provided absolutely no documentation for its claim that the Galaxie is protected from road shock and vibrations, nor did GM for its claim that the Opel has a lubed for life chassis.

All of these findings and many more are contained in a 70-page analysis of the auto ad documentation materials, made public on May 15, 1972, by the Center for Auto Safety, a Nader-originated public interest group. The study concluded that the data submitted was, for the most part, irrelevant, inconclusive, intentionally misleading or intentionally incomprehensible, "a mockery of the FTC, its order and the principle of truth in advertising." But the gadfly center also criticized the FTC in a covering letter, observing that, "The FTC's execution of the program to date has amounted to a total abnegation of its duty to protect consumers from deception in advertising." It called on the FTC to "move forcefully and impose strong sanctions" against the auto manufacturers.

The *Times* and *Journal* saw nothing newsworthy in either the Nader group's scathing 70-page analysis of auto company data (the analysis shows that the "substantiation" submitted for six claims actually disproved them) or its condemnation of the FTC. The *Post* ran a story which summarized the Nader critique, but which was headed, NEGLECT/LAID TO FTC/IN AUTO ADS.

A third hypothesis, confirmed by the *Post's* treatment of the Nader report, is that the character of the coverage has been determined in large part by who released the story: the press covers the attitude of the releaser rather than the contents of what he has released. This seems to have been the case on July 31, 1972, when Senator Moss, rather than the FTC, released the FTC staff report and included his own comments on both the ad claims ("a substantial number of ad claims are backed by hot air") and the FTC ("not a satisfactory mechanism for supplying useful consumer information"). The *Times's* SENATOR CRITICAL OF FTC DRIVE/FOR JUDGING ADVERTISING CLAIMS and the *Post's* AD CLAIM SUBSTANTIATION QUESTIONABLE both were buried on the inside pages. (Again, the *Journal* ignored the story.)

Now there is nothing particularly new about the pattern of press release-stimulus followed by newspaper story-response; there is nothing particularly new about the daily press reporting statements rather than analyzing ideas; there is nothing particularly new about sources putting out information to maximize their own interests. We might assume that had the FTC put out its own staff report with an accusatory press release against Ford, GM or whomever, the story would have been duly covered.

What seems to have skewed press coverage of the FTC's ad substantiation program is simply that the third party to the proceedings, the auto industry, appears to have understood the game better than either of the players. By deluging the government (ergo the press, since the FTC was unwilling to make its own evaluations or make public those it commissioned) in paper, jargon, equations and statistics out of all proportion to the preconceived importance of the program . . . industry may have carried the day.

Indeed, in mid-October of this year, when Consumer's Union (and Bess Myerson, for reasons unexplained) released a private report prepared for the FTC by Bolt, Beranek & Newman, Inc., an engineering consulting company, which validated much of the Nader Center's analysis, all three papers gave it decent coverage (although again, the substance took second place to the event of the report). On October 7, 1972, the *Post* turned over page one to 'PROOF' FOR AUTO AD CLAIMS/IS INADEQUATE, ANALYSIS SHOWS, the *Times* announced in an Associated Press story on page 18 that STUDY SAYS SOME CAR ADS/ARE POORLY SUBSTANTIATED and the *Journal* reported on page eight that PRIVATE REPORT CITES/SUBSTANTIATION DEFECTS/IN AD CLAIMS FOR AUTOS—"Consulting Firm says only 16 of 54 Claims it Was Asked to/Check by FTC Had No Faults." Moreover, the following week when the FTC issued complaints challenging ad claims of GM and Volvo as unfair, FTC CHALLENGES AD CLAIMS stories appeared in all three papers.

What seems to have skewed press coverage of the FTC's ad substantiation program is simply that the third party to the proceedings, the auto industry, appears to have understood the game better than either of the players. By deluging the government (ergo the press, since the FTC was unwilling to make its own evaluations or make public those it commissioned) in paper, jargon, equations and statistics out of all proportion to the preconceived importance of the program (in terms of either FTC-time or press-time), industry may have carried the day. If it hasn't, the credit goes more to the Center for Auto Safety and the FTC, which had the wit to commission an independent study, than to the press.

Lessons to be learned? No easy ones. But for openers, there's obviously something wrong with a press that requires a Nader outfit or a privately commissioned consulting firm to act as a press-surrogate. I won't even ask why the press wasn't out conducting its own ad substantiation program before the FTC got into the act. Obviously there's no reason reporters should have to sit around waiting for some government bureaucrat to issue a report or for some consumer bureaucrat to issue a counter-report. But next time a government agency does all that free leg-work (and remember the FTC has ad documentation on tires, soaps, and detergents, dentifrices and hearing aides yet to be released), reporters and their editors ought to get together to re-assess time-budgets.

And if the reporter really lacks the expertise why not hire him some? Why not retain, on a short-term or consulting basis, experts who are qualified to analyze technical material? Perhaps some of that budget-money that now goes to high-priced pollsters who tell many reporters what they already know anyway, could be re-channeled to an occasional consulting physicist, chemist or engineer. And finally, I would suggest that at least on matters of deep technology, matters on which the public *ipso facto* can't have an informed opinion, evaluation-avoidance is responsibility-avoidance. Foreign languages, even scientific ones, ought to be translated. If that were routine practice, the public might have been alerted to some needless and perhaps harmful media pollution as long as a year ago.

Harassing the Press

BY JACK C. LANDAU

Editor's note: Peter Bridge, the New Jersey journalist who spent 20 days in jail for refusing to answer some of the questions put to him by a grand jury, is now free and expects to take a job in television soon. But governmental intimidation of the press continues unabated. On November 16, William T. Farr, a reporter with *The Los Angeles Times*, was jailed for three-and-a-half hours for refusing to reveal his sources for a 1970 story on the Charles Manson case. A California appeals court quickly agreed to rule on Farr's case, so the reporter was freed on his own recognizance pending that ruling. If the appeals court finds against him, Farr could be jailed indefinitely. In the following pages, Jack C. Landau, who covers the U.S. Supreme Court for the Newhouse Newspapers and is a trustee of the Reporters Committee for Freedom of the Press, outlines the widening dimensions of the censorship trend nationwide and illustrates the unwillingness of most publishers and broadcasters to do much about it; Anthony Lewis, the *New York Times* columnist who won a Pulitzer Prize in 1963 for his Supreme Court coverage, deals with the journalist's responsibilities as well as his rights in remarks (slightly revised) delivered at (MORE)'s fundraising rally for Peter Bridge at the Village Gate in New York City October 24; and Landau concludes with a case-by-case rundown on Farr and many of the other reporters facing government harassment.

Not long ago, the office of the general counsel of *Time* magazine was asked to make a court appearance in support of Douglas Rhodes, a Nebraska State Penitentiary inmate, who was disciplined because he had written a letter to *Time* complaining about prison conditions. *Time* was not aware of the letter because it had been confiscated by prison officials; nor did *Time* know that a law suit involving the letter was filed in 1970 by Rhodes' attorney seeking a ruling that prison inmates have a constitutional right to send unopened and uncensored mail to the press, and that reporters have a constitutional right to receive unopened mail from inmates in order to inform the public about conditions in penal institutions. *Time* declined to enter the case in defense of its own rights, and the rights of its reporters: "We [*Time's* lawyers] are terribly tied up now with a libel case in Italy." As a result, the Reporters Committee for Freedom of the Press (assets \$4,213) was obligated to file a brief in the case in defense of the right of *Time* Inc. (assets \$236 million) to receive information about prison conditions.

The apathy and ignorance displayed by *Time*, Inc. is tragically symptomatic of media owners' ineptitudes in opposing the current censorship trend striking at the press all over the nation—ineptitudes our publishers and broadcasters have never tolerated in handling their antitrust cases, union negotiations and advertising revenue losses. In 1966, for example, Steve Hamilton, a steel worker, was arrested in the Berkeley riots. A judge banned all defendants from talking about the case prior to trial. Hamilton violated the ban in order to tell the public his side of the riots after Alameda County law enforcement officials and Gov. Ronald Reagan had given out their side of the story to the press. When Hamilton's case reached the United States Supreme Court last spring, it was not supported by a single news organization—even though Hamilton's remarks had been widely carried by the San Francisco Bay Area press, the very press Hamilton claimed he had a right to talk to. Last March, after the Supreme Court declined his appeal, Hamilton served a 40-day sentence in the Santa Rita State Rehabilitation Center and became the second person in recent years to be imprisoned for communicating with the press. (The first was Reyes Lopez Tijerina, the Mexican-American separatist.)

This apathy of our owners is not limited to obscure convicts or dissenters, but extends to First Amendment issues in even the most celebrated cases. Daniel Ellsberg is now under indictment for, among other crimes, simple, old-fashioned common law "stealing." The Justice Department claims he stole a government report. The Justice Department claims that the government owns government reports and government-compiled

facts about the operations of government agencies—not just "national security" facts, but reports on health, education, housing, law enforcement, etc. Therefore, of course, as the "exclusive" owner of government information, the Justice Department claims it may prosecute Ellsberg for theft (and why not Neil Sheehan or *The New York Times* for receiving stolen property?).

This frightening and completely novel Justice Department argument directly contradicts the American tradition that information about government operations belongs to the public. It directly suggests criminal prosecutions against newsmen and news sources for the unauthorized possession of any information not approved for release by self-serving government politicians. But when Ellsberg's attorney's filed a motion to dismiss the "stealing" count of the indictment on the grounds that it violates freedom of speech and of the press, there were no appearances by the *The New York Times*, *The Washington Post*, or the other owners who fought successfully to publish the Pentagon Papers.

The danger of theft prosecutions against newsmen for publishing government information is more than speculative. There is now pending in the California Supreme Court a case in which a newspaper, the *Los Angeles Free Press*, its editor and a reporter have been convicted of "receiving stolen property." The property is a list of government employees acting as narcotics undercover agents. The list was taken without permission by a state employee and given to the *Free Press* for publication. California claims—as does the U.S. in the Ellsberg case—that information about the operation of government agencies and employees is owned by the state and may only be possessed by newsmen if released with the approval of government officials. *The Los Angeles Times* has carried several stories on the *Free Press* prosecution, including a long editorial-page news analysis. But neither the Times-Mirror Corp. (assets \$192 million) nor any other publisher has come to the aid of the *Free Press* in court. So once again, the burden fell on The Reporters Committee and it has filed a brief in defense of the rights of the press to be free from this new form of government censorship in California.

Of course, the owners sometimes do respond effectively to some censorship threats, but generally only when an immediate danger is posed to their bank accounts (libel and antitrust cases) or to their own employees (William Farr of *The Los Angeles Times*, David Lightman of the *Baltimore Evening Sun*, Joseph Weiler of the *Memphis Commercial Appeal*, to mention some of the pending censorship cases not involving libel). But even when management decides to act, it may be too late. For example, in November, 1971, a New York State trial judge closed the public trial of Carmine Persico, a reputed Mafia employee, on the ground that news stories were prejudicing his rights to a fair trial. Reporters covering the trial asked their employers to file suit immediately. After four days, when they had not acted, a Committee of 100 Reporters was formed and it filed an action to open the trial to the press. The original group of reporters was employed by the *Times*, the *New York Post*, the *New York Daily News*, the *Long Island Press* and UPI. (AP prohibited its reporter from joining the committee on the ground that AP "policy" bars reporters from participating in events they may have to cover.) In the next several weeks, the *Times*, NBC and several other groups did join the case. But by that time, Persico's secret trial had ended in an acquittal. Last March, an appellate court said that the closure order should never have been issued.

In addition to this lack of concern, ignorance and delay, there are a few cases which suggest, at a minimum, questionable legal advice which actually helps government censorship. The most notorious occurred in September in Memphis when Joseph Pennington, a reporter for radio station WREC, was advised by the station to disclose to a legislative investigating committee the confidential source of information obtained during an investigation of abuses at a home for retarded children. Under the threat of a subpoena, Pennington disclosed his source. Currently, he and his source have been recommended to the Shelby County grand jury for a perjury indictment, because the source denied being the source and someone is lying. While WREC is a small station, it is owned by Cowles Communications, Inc., which should know that the Caldwell decision only applies to grand juries and not to legislative investigations. Pennington and station WREC appear to represent the first post-Caldwell case where the subpoena threat successfully disgorge a confidential source.

A final ineptitude of the owners has been their failure to give top priority news coverage to all significant censorship developments. How

many readers know about Joseph Pennington, Harry Wood of the *Texarkana Gazette*, Larry Dickinson of the *Baton Rouge States Times*, Joseph Weiler of the *Commercial Appeal* (see below)? News organizations must be convinced that news censorship today poses a substantial danger and that the public has a right to know how its freedom is being constricted. This means that publishers and editors must ferret out censorship and report it in detail; that the wire services must be persuaded to carry censorship stories on their national circuits with budget-line red flags; and that wire editors in Des Moines should be advised to carry lengthy stories of censorship in Memphis.

In short, the first prerequisite for any intelligent coordinated opposition to censorship is facts and, in general, the owners, with their powers over their own reporters and the wire services, have failed to give the public the facts. (Some owners have spent a great deal of time and money keeping *private* tabs on censorship. Among them are James Goodale, general counsel of the *Times*, Richard M. Schmidt, general counsel of the American Society of Newspaper Editors and Don Reuben, counsel to the *Chicago Tribune*.)

Assuming that we will know *how*, *when* and *where* censorship develops, publishers and broadcasters must be persuaded to underwrite a censorship defense fund along the lines of The Reporters Committee. It should be well financed (the Committee's major income has been a \$3,000

grant from *The Boston Globe*); adequately staffed (the Committee uses volunteers); and it should be able to respond immediately (the Committee has provided a lawyer to reporters on two hours notice and pledged \$500 to Peter Bridge's Supreme Court appeal within 10 minutes after help was requested).

In fairness, the owners have occasionally galvanized themselves effectively and responded to censorship (The Pentagon Papers, *New York Times* v. Sullivan, the Caldwell, Branzburg and Pappas cases, AP v. General Walker, and the Metromedia libel case). Furthermore, they have sporadically responded to the current crises. *The Wall Street Journal* and the *Chicago Tribune* each gave Peter Bridge more than \$1,000. The *Times*, which spent \$500,000 in legal fees fighting censorship last year, helped the *Stanford* [Calif.] *Daily News* fight an illegal police raid. The American Newspaper Publishers Association is slowly drafting a model shield law to combat the Caldwell decision. The *Los Angeles Times* is fighting a court censorship ban. The *Washington Post* has filed a prison censorship case.

But good intentions and an occasional left-jab are no longer sufficient. The owners must be persuaded to support a well-coordinated, well-financed and flexible defense effort. Until the owners, with their vast financial and legal resources, assert some moral leadership, the working press will have to carry much of the fight alone—a fight they are ill-equipped to wage and, right now, not hopeful of winning.

'Bad Time for Civil Liberties'

Peter Bridge must be something of a romantic to have done what he has—a romantic about this country and about his business. I think myself that good newspapermen generally have a romantic streak in them: The veneer of cynicism is not very thick. But idealism should not lead us into sentimentality, least of all about our own profession. And so I do not propose tonight to trumpet the glories of newspapers or television or radio or magazines. I believe in skepticism about ourselves as well as politicians.

The other day I had a letter from a reader commenting on a piece in which I had wondered whether the public was open to the truth about the war—whether it was even listening to the facts about the terror the United States is pouring on Southeast Asia. The reader suggested that I had made a false assumption, namely that the facts were available. Most Americans, he said, live in places where their newspapers do not criticize or even analyze what the United States has done and is still doing in Vietnam, or run critical columns. And television, this reader suggested, is not much more help.

I had some confirmation of that gloomy view last week, when I spent several days in a remote part of the Middle West. The newspaper was so bad that I made a point of tuning into one of the national television network morning shows for news. On television I got the news about the death of Pierre Susini, the French delegate in Hanoi—in one sentence. There was no analysis whatever of how the French mission had been hit, no reference back to Secretary Laird's shameful effort to avoid responsibility for the American bombing. The viewer out there simply would have had no idea that Pierre Susini's death was the result of American bombing—bombing that regularly takes thousands of civilian lives, although our officials are not honest enough to admit it. This is not the occasion for a rundown of television's inadequacies. I say only that I am not sure how many Americans, in their homes, get from their papers and television a real idea of who has done most of the damage in Vietnam, and for what reasons.

I have always thought it well to look closely when publishers or network executives make speeches about the First Amendment. It is easier to talk in generalities about the constitutional rights of the press than to face its responsibilities—its very heavy ones in effort and enterprise and risk. Our big, established newspapers, magazines and networks do not often get right out at the legal frontier and fight for their freedom in a really hard case like that of the Pentagon Papers.

As a skeptic I cannot be a believer in constitutional absolutes, for the press any more than for others. I did not agree when Congressional committees claimed an absolute right to make witnesses answer their questions in the furtherance of legislative power, and I did not when the Executive branch claimed an absolute inherent power of surveillance over citizens. It has also seemed wrong to me when the constitutional interest of the press is advanced to the exclusion of others.

I do not think we can lay down an absolute rule against

journalists testifying or otherwise cooperating with the legal process. Not so long ago reporters helped the Department of Justice with information about violations of civil rights in the South. Without their help, and sometimes their testimony, it might in many instances have been impossible to stop the vicious practices that prevented blacks from voting or threatened their lives. Was that wrong? I do not think so.

And so I have always been doubtful about the idea of reading into the Constitution an absolute privilege for journalists against testifying in court. The whole trend of the law of evidence over recent years has been to increase the availability of testimony, not to enlarge the exemptions. It would be wrong to freeze some generalized new exemption into the Constitution. I take a practical view. I think that one must balance the interests in such matters—and that in this country there is a very, very strong interest in giving the press a particularized exemption from testifying, doing so by statute or judicial interpretation.

The law responds, as Holmes said, to the felt necessities of the time. It is the state of our democracy that makes me look differently at the function of the press in America, value it more highly and desire to protect it.

In our own lifetimes the power of the federal government has grown enormously in this country. A few years ago it was a truism that the police power at least lay with the state and localities. Now, as our political campaigns show, we even look to Washington to protect us on our streets. The old idea of diffusing governmental authority among the states is simply dead. Within the federal government it is the President and his agents who have gained power. Presidents, we now know, can take this country into war and keep it there for seven years—in spite of public and Congressional opposition. Congress, in fact, has never appeared feeble, crippled by its internal anachronisms.

The American form of government grew originally from a fear of concentrated power. Nothing in the recent history of other countries makes that fear less relevant; to the contrary, totalitarian power in the technological age is more ruthless, more destructive, harder to dislodge than ever. As Orwell foresaw, the wielders of that power may have the techniques to disarm public scrutiny and win a form of deadened mass acceptance for whatever they do.

That is why we need a free and a courageous press. With an enfeebled Congress and a supine public opinion, the function of the press has never been so vital. We in the communications business—in the media, that awful word—are hardly perfect. We can be inadequate, foolish, vulgar, biased, wrong. But we are all there is if the United States is going to maintain a check on power of the kind the framers of the Constitution had in mind.

These issues have to be considered in the context of a particular society. In Britain the press does not play the same role, probably in part because Parliament can call the Executive to account so much more readily than our Congress does. And the British press operates

under legal disabilities that we would find intolerable. In this country the more critical function of the press requires a greater degree of legal freedom. The Supreme Court of the United States understood that when it decided the *New York Times* libel case a decade ago, *New York Times v. Sullivan*. It held that public figures could not recover libel damages for comment on their public actions, even if there was error in the comment, unless it was malicious—knowingly false. This was a new interpretation of the Constitution, one that I think could not conceivably have been made by the Court even a dozen years earlier. The reason the Court changed its view, I am sure, is that the significance of the press's role had become clearer to judges as it had to other people.

When the Supreme Court dealt this past term with the question of testimonial privilege for journalists, I think it should have approached that issue in the same spirit. I say again that I do not think an absolute Constitutional rule would have been the right answer—a rule that a journalist never has to testify about anything, whatever the circumstances. The solution was not to make our profession a special and absolutely privileged class. It was to recognize the vital function of Earl Caldwell and others like him and require the Government to make a specific and convincing showing of need for some particular testimony before any compulsion could arise. The crucial step—one that would have prevented dragnet grand juries of the kind Peter Bridge met—was to put the burden, a heavy burden, on those seeking to subpoena the witness. Instead, a majority of the Court imposed a general obligation to testify, coupling it with only the vaguest assurance of judicial protection against prosecutors' abuse of their power. Peter Bridge has already learned the value of that assurance.

At the same time the Supreme Court made another decision posing a serious danger to freedom in this country—a case that the press should not forget in preoccupation with its own problems. That is the *Gravel* case, holding that a senator or his assistant may be forced to testify before a grand jury about their sources in obtaining Government documents that they sought to publish in the public interest. Here is another grave limitation on the already grossly inadequate ability of Congress to scrutinize Executive operations.

What can be done now? One course is to work for legislation giving the press the protection it needs to carry out its essential function.

That effort has begun. It will hardly be easy, given the inevitable opposition of those who prefer to exercise power without any effective check. But I think there is a real chance to enact legislation if the leaders of the media really work at it. The other essential is simply more courage and, to put it bluntly, more wisdom and more intelligence from the press. Freedom is not preserved by soft men and women, or for that matter by lazy ones. And especially not in the immediate American future.

I think we are in for a very bad time for civil liberties in this country—a very mean four years. For we have governing us people with no instinct for individual liberty and no sense of moral restraint on their own use of power. They regard it as quite natural to eavesdrop on critics, to summon them before grand juries, to use the most brazen forms of intimidation.

I wonder whether even the press understands how dangerous the prospect is. Consider just one matter that should be a warning signal: the prosecution of Daniel Ellsberg. In that case the Government is trying to use three statutes—in each case for the first time in history—to punish a man for leaking documents. One is the Espionage Act, and there is not even a claim of the kind there always has been under this statute, of aiding a foreign power. Most lawyers I know who have considered it do not believe these statutes cover what is charged against Ellsberg. But suppose the Government persuades a jury that they do—and eventually is sustained in a Supreme Court dominated by its own appointees. Just imagine how dangerous this new crime of leaking will be—how it will allow the Mitchells and Kleindiensts of Washington to prosecute unfriendly leakers and wink at the friendly ones. How many in the press understand the specific implications of the Ellsberg case for them? If it becomes a crime to leak documents, then under the Caldwell decision the reporter who writes on the basis of such information can be required to testify about his sources—and can be jailed if he will not.

I think a good many journalists may go to jail in this country over the next few years. That may be the only way to resist further accumulation of power in a single set of hands. To save the spirit of liberty in this country will require more courage on the part of reporters and editors and broadcasters and the rest of us than most of us have shown until now. It is for pointing the way that we honor Peter Bridge.

—ANTHONY LEWIS

Across the country, many journalists find themselves involved in litigation simply because they have tried to do their job. Following is a sampling of cases that illustrates the variety and ingenuity of current censorship efforts:

Newsmen can be imprisoned for disobeying invalid prior restraint censorship orders issued by courts.

Last spring, reporters Larry Dickinson of the *Baton Rouge* (La.) *States Times* and Gibbs Adams of the *Morning Advocate* were held in

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contempt of a federal court order banning publication of all news stories of a public civil rights case hearing. In August, the U.S. Court of Appeals for the Fifth Circuit ruled that the federal court news-blackout order was void because it violated freedom of the press. But the Court of Appeals also ruled that illegal court censorship orders must be obeyed and appealed, rather than ignored, because a temporary delay in publishing news is not an "irreparable" injury to the rights of the press. It cited the delays imposed upon—and obeyed by—*The New York Times* and *The Washington Post* last year in the Pentagon Papers case. It sent the Baton Rouge case back to the District Court for a hearing on whether the judge issued the order because of the "contemptuousness" of the reporters or because the judge had misinterpreted the law. On October 10, Judge E. Gordon West held the hearing and ruled that he had imposed the contempt because the two reporters had "knowingly" violated the order. The case is now back on appeal to the Fifth Circuit.

This is the most pernicious of all the pending censorship cases because it authorizes a blank check to the judiciary for prior restraint of the press. Because the Court of Appeals decision elevates the "integrity" of the courts over the rights of the press, it permits judges to impose at least temporary censorship by the simple expedient of issuing orders requiring the press to obey illegal laws, illegal municipal regulations, illegal executive orders, to submit to illegal searches and arrests, and to submit to illegal rulings of judges claiming to protect the rights of defendants in civil or criminal litigation. The Fifth Circuit opinion does not, as even the Justice Department conceded in the Pentagon Papers case, limit its prior restraint to "national security" threats. If, as this case suggests, the "integrity" of the courts now stands higher than the powers granted to the media by the First Amendment, the press will become the hand-maiden of every corrupt or stupid judge in the nation.

Newsmen can be imprisoned for reporting public criminal trials and related events.

Harry Wood, executive editor of the *Texarkana Gazette*, was

The press (is in danger of becoming) the hand-maiden of every corrupt or stupid judge in the nation

held in contempt of court for ignoring a court order not to publish a verdict in a rape trial. Unlike in the Baton Rouge case, the Arkansas Supreme Court voided the order in October and said Wood was never under any obligation to obey it.

Reporters Dee Norton and Sam Sperry of the *Seattle Times* ignored a judge's order limiting criminal trial reporting to only those events that occurred before a "judge [and] ...jury." They reported an evidentiary hearing from which the jury had been excused and were held in contempt. The Supreme Court of Washington in June, 1971, voided the contempt and said there was never any obligation to obey the order.

The Los Angeles press corps was barred from conducting any pre-trial investigative reporting of a man accused of murdering a four-year-old girl. The *Los Angeles Times* appealed the order; appellate court vacated the order temporarily but has not issued a decision in the case yet.

The up-coming trial of five men accused of bugging the Watergate offices of the Democratic Party has produced two unrelated censorship problems: a) the judge who is hearing the case issued an order banning all comment about the case by defendants, attorneys, prosecutors, "witnesses and . . . prospective witnesses." He later modified the order to exclude "witnesses" but the order still covers "the defendants and . . . all persons acting for or with them" (whatever that means); b) the judge has issued an order against *Los Angeles Times* reporters Ronald Ostrow and Jack Nelson demanding "tape recordings, notes and other evidence" they may have obtained during a six-hour exclusive interview with a key witness in the Watergate case. While the order was handed down in October in open court, it had not been served on Ostrow and Nelson as of this writing. The *Los Angeles Times* is prepared to Appeal.

The Caldwell problem: Disclosing the content and source of confidential information.

The leading case involves William Farr. While a reporter for the *Los Angeles Herald-Examiner*, he obtained a highly incriminating statement by a witness in the Charles Manson murder case. Farr said he obtained the statement from two of the six defense attorneys in the case. All attorneys were under a court order not to give evidence to the press. Farr refused to disclose his source citing a California shield law protecting confidential sources. He was held in contempt of court and appealed to the California District Court of Appeal. That court upheld the contempt citation. It ruled that the California shield law was void for purposes of protecting a reporter who interfered with "the inherent and vital power of the [trial] court to control its own proceedings and officers." The power of the courts to enforce fair trial orders and to otherwise control their proceedings by contempt citations "is inherent in their constitutional status" and it is "unconstitutional" for the legislature to interfere in the trial court's jurisdiction.

This case stands for the dangerous proposition that state legislatures have no statutory power to protect a reporter's confidential sources when a judge thinks that the failure to disclose the source will impair the "integrity" of the courts. Here, as in the Baton Rouge case, the courts are using "inherent" powers which they claim supersede the First Amendment. The *Los Angeles Times* appealed to the Supreme Court. On November 13, the appeal was denied. (Caution: this is a very complex case. For example, Farr was a reporter during the trial, was not a reporter when he was held in contempt and now is a reporter for *The Los Angeles Times*).

Joseph Weiler of the *Memphis Commercial Appeal* refused to disclose to a Tennessee State Senate Investigation Committee the source of confidential information he obtained during an investigation of child abuse at a hospital for retarded children. The legislature is expected to meet on December 11 to decide whether or not Weiler should be held in contempt.

David Lightman, a reporter for the *Baltimore Evening Sun*, refused to tell a county grand jury the name of a salesgirl who gave him some information on drug abuse. Maryland has a shield law. But the Maryland Supreme Court ruled that the shield law did not apply to Lightman because, when he obtained the drug information, he was posing as a casual shopper. The paper will appeal the case to the Supreme Court.

Three *Milwaukee Sentinel* reporters have been ordered to disclose the confidential sources of information they obtained indicating that the chairman of a county board of supervisors had accepted gifts from contractors doing business with the county. The three reporters—Gene Cunningham, Stuart Wilk and Dean Jensen—appealed the disclosure order to the U.S. Court of Appeals where it is now pending.

Reporters can be forced to disclose confidential sources in libel cases.

Libel has always been considered a *sui generis* action in relation to the confidentiality problem because here the newsman is seeking to invoke the confidentiality privilege as a defense against civil damages; but the law has assumed that a wrongdoer cannot hide behind the First Amendment to cover up his mistakes. There are two cases of interest:

Brit Hume, until recently a reporter for Jack Anderson, has been ordered to disclose the source of information that a union lawyer improperly removed files from a union office. The case is on Appeals to the U.S. Court of Appeals in Washington, D.C.

Cervantes v. Life. *Life* magazine published an article accusing the mayor of St. Louis with having extensive gangster connections, partially based on information supplied by anonymous sources. The mayor sued and demanded to interview the sources in an effort to prove that the libel case fell within the "malice" or "reckless" disregard for the truth exemptions of the *New York Times v. Sullivan* rule. The U.S. Court of Appeals ruled last July that *Life* did not have to produce the confidential sources. The Court said that *Life* had produced sufficient other evidence to prove that it had engaged in a carefully researched investigation so that the article was done without "malice" and without any "reckless" disregard for the truth. Therefore, the court said, the testimony of the confidential sources would be immaterial. This is a very important case which opens up a whole new line of defenses in libel cases for the protection of confidential sources.

Law Enforcement Harassment

This is generally a problem faced by the underground press: arrests, police raids, prosecutions for pornography, denials of police passes, seizure of papers and office equipment. The Establishment Press generally has remained aloof from the problems of its impoverished brethren.

One current case of interest involves two reporters from the Black Panther newspaper, Sherrie Bursey and Brenda Joyce Presley. They were called before a federal grand jury investigating the Black Panther party and asked dozens of questions about the newspaper: who made the assignments, who worked on certain editions, who distributed the paper, who was in charge of subscription, who wrote captions, etc.? This was part of the same massive grand jury investigation of the Black Panther party that caught Earl Caldwell in its net. On June 30, the U.S. Court of Appeals reversed the contempt citations. It said that the whole Justice Department-controlled grand jury session was an attempt to destroy the traditional press freedom in this country of not calling upon the press to answer for the internal management of its affairs. "Protection of the anonymity of publishers, printers and distributors of newspapers and pamphlets is an integral part of press freedom," the court said.

The opinion strongly implies that the grand jury was doing nothing more than attempting to harass and intimidate the Black Panther party. On October 19, the Court of Appeals denied a rehearing in the case.

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Remember the Neediest

BY KATHLEEN HENDRIX

Jo lives—that is to say, Jo has not yet died—in a ruinous place known to the like of him by the name of Tom-all-Alone's. It is a black, dilapidated street, avoided by all decent people, where the crazy houses were seized upon, when their decay was far advanced, by some bold vagrants who after establishing their own possession took to letting them out in lodgings. Now, these tumbling tenements contain, by night, a swarm of misery. As on the ruined human wretch, vermin parasites appear, so these ruined shelters have bred a crowd of foul existence that crawls in and out of gaps in walls and boards; and coils itself to sleep in maggot numbers, where the rain drips in; and comes and goes, fetching and carrying fever and sowing more evil in its every footprint than Lord Coodle, and Sir Thomas Doodle and the Duke of Foodle, and all the fine gentlemen in office, down to Zoodle, shall set right in five hundred years—though born expressly to do it.

—Bleak House



On December 10, *The New York Times* once again turns over the front page of its Sunday entertainment section to its annual reminder that we all should Remember the Neediest! Jo's story, of course, would qualify hands down for this year's appeal, although the *Times* probably would strike out that business about "the fine gentlemen in office." For every year since the pitch began back in 1912, the Neediest Cases have arrived more tightly wrapped than the best of Christmas packages, hermetically sealed, in fact, from a social and economic world of cause and effect. Unlike Dickens, the *Times* does not accuse or criticize. The *Times* takes up a collection.

True, the cases do focus on a part of society few *Times* readers personally experience. But in each year's compendium of heartrending tales there is seldom even a hint of "haves" interacting with "have nots." In 1912, rather than demand decent wages and working conditions from employers, the *Times* praised the courage of those who worked a 20-hour day, assuring readers these Neediest were not paupers but worthy. In 1971, rather than ask why a deserted mother had no alternative but to quit her job and live in a rat-infested building with her children, the *Times* praised her strength and drew comfort from the fact that a counselor was helping her to cope until things got better. This patronizing attitude is very much part of the *Times'* public face (the Sunday paper features the cases, the daily paper reports the contributions, the editorial page supports the drive); and although poverty and the poor are dealt with elsewhere in the paper, the Annual Neediest Cases Appeal reflects a mind-set that, as we shall see, has no small effect on that coverage. It is a charity mentality, still not too far removed from Dickens, that permeates the society and its journalism—a placebo of *noblesse oblige*, righteousness and institutionalism.

The goal of the *Times'* appeal, first announced in an editorial on December 17, 1912, and repeated every year since, is "not giving, but elevating to self support and self respect." Its other purpose, also reiterated through the years, is educational. On Sunday morning, December 15, 1912, a banner headline across the magazine section read: "Santa Claus Please Take Notice: Here Are New York's 100 Neediest Cases." One hundred paragraphs presented "the uttermost dregs of the city's poor," as guaranteed by three charitable organizations. Although no direct requests for funds had been made, within 48 hours contributions of cash, gifts, used clothing and toys, offers of adoption and requests to visit the Neediest were pouring into the *Times*. An institution had been created. By Christmas Day, over \$3,600 had directly relieved all one hundred cases. By the end of the 1971-2 Christmas season, \$1,010,764 had been collected for the eight private welfare organizations participating in the Sixtieth Annual Appeal.*

Over the years, the appeal has gone through several transformations. For a while, the amounts of money needed to rehabilitate each case were specified; daily articles charted funds, listed donors, excerpted their letters. Earmarking of contributions became popular and donors often wrote that it took hours to select which case was the most deserving. One 1932 contribution arrived "in memory of my dear old cat, Cassius," and was earmarked for "some old person who clings to a pet cat or dog." Large contributions were welcomed, but small donors were encouraged to send in their "mites."

It was never too early to acquire the habit of *noblesse oblige*. A 1922 editorial told parents: "Most instructive and useful it would be for children to read, or have read aloud to them, specimen cases. It is not simply a question of how the other half lives, but of acquiring knowledge of the bitter need which sometimes overwhelms individuals and families and which inclines every heart to melting charity." Little Nelson and David Rockefeller's donations were recorded that year, their father fleshing out the family contribution to \$900, while older brother John sent his own \$50. Acknowledgement was made that same day, December 20, of the \$100 gift from the Sunnybank collies, "faithful quadrupeds."

At times it was positively zany. The Royal Nuts of Mt. Vernon held a party at which everyone was given a royal title and fined if they addressed a fellow Nut without using his title. The fines were sent to the Neediest. Felicia the Cat also contributed that year, embarrassed that she lived better than some bipeds.

Follow-up articles would appear throughout the year on rehabilitated cases, such as one 1922 family whose eldest daughter was now employed and turning over every penny of her "small income" to her

* The Community Service Society, the Federation of Jewish Philanthropies, the Catholic Charities of the Archdiocese, the Brooklyn Bureau of Community Service, the Children's Aid Society Foster Care Service, the Catholic Charities of the Diocese of Brooklyn, the Staten Island Family Service, the Federation of Protestant Welfare Agencies.

mother. The mother's health had improved since Christmas and *Times* readers would be happy to know that her Christmas wish "for a 'blanket and a bit of coal' was granted and friends say she has never ceased talking about the joy of sleeping warmly."

Indeed, the general mood of the 1922 appeal was one of optimism. An editorial on December 12 observed that "if need is great, the ability and riches to give are greater." While the steadily rising cost of living was acknowledged as a burden to the poor—bringing high rents and food prices, plus unemployment—there was, nonetheless, a feeling that poverty could be wiped out. For example, tuberculosis, a major cause of destitution, had been cut by half since 1912 and was now preventable. The *Times* conceded that cold, poor nutrition and worry weakened people to the disease. But educating the poor about the illness was most important. As one welfare official explained to appeal readers, the poor have an "incapacity and inability... to meet the modern conditions of life. Ignorance and lack of adaptation lead to bareness of living and then to actual suffering and distress."

The Depression meanly intruded around this point. The poor were now often next-door neighbors, and their predicaments hit closer to the donor: yet, even then work was regarded as the simple antidote to poverty. It was acknowledged—with respect, of course—that many of these victims of the Depression, newcomers to poverty, almost starved before they would ask for help. One Neediest Case was a prosperous businessman who had lost everything and was dying from overwork as a janitor. Even here, that same patronizing language distinguishes this man from those who could give, thus making him pitiful as he valiantly adjusts his family to their basement apartment by "papering his kitchen a cheerful color." The goal was still "not giving, but elevating into self support and self respect." Meanwhile the *Times* reported the daily progress of hunger marchers. Washington police stood guard as 3,000 of them made their way to the capital from Albany, N. Y.

With the coming of Social Security, welfare and the WPA, some concepts about poverty began to change. Supposedly, the government now provided for health and material needs of the poor. Private agencies were redefining their purpose and in 1942, the *Times* found it necessary to explain why the appeal was still needed. There would still be some material relief, but the emphasis now would be on supportive services—housekeeping, vocational training, counseling. In 1942, for the first time, some of the funds would go towards social workers' salaries. Readers had always been told funds went directly to the needy. It was stressed that social workers were not administrators, but acted as a direct service to the needy. Increasingly, too, the *Times* began to face the fact that America was not going to get rid of poverty. It was not simply a matter of new immigrant groups catching up, and of transitory economic setbacks. Public welfare was an institution of the state. There was an awareness in the appeal that the poor would always be with us.

The *Times*, however, was not about to blame the American social or economic system. Reaching back into a mythology older than this country, the *Times* blamed fate. Fate had been spotted lurking around the poor ever since 1912, but never had it been attacked with the vehemence of 1942. The language broke down under the burden. "It's no use to snarl at fate, but when fate is caught cogging the dice she ought to be exposed," decreed the editorial page in an uncharacteristic burst of passion. The poor were those on whom "time and chance have played an evil trick." For a newspaper that eschewed crusades, the *Times* pulled no punches with fate. The Neediest were the "prisoners of misfortune... the cards were stacked against them... these innocents have had more than their proportionate share of the cuffs and kicks of fortune." There was a way out, however, because not everyone had been cuffed and kicked around. The *Times* appealed, as always, to the nobler instincts of these lucky ones: "Let us redress the balance a little, set them on their feet again, put them on their way to health and employment, try to give them—and to some for the first time—a little happiness."

In the 1950's people with emotional problems and marginal income families began to dominate the appeal. Deserted wives began showing up in increasing numbers and the *Times* was merciless with their husbands, calling them "weaklings, cowards, or mere scoundrels." But, then, some Neediest have been beyond the pale right from the start in 1912: runaway husbands, families with incest problems, ex-convicts futilely job-hunting, welfare cheats, etc. Such unsavory types, when shown at all, are brought on stage as troublemakers affecting the True Neediest. "The *Times* does interpret the needs of the poor, but it leaves a segment out—those who are not appealing, people who haven't done for themselves," says Richard Hackman, who oversees the appeal for the Community Service Society. Hackman thinks the *Times* is accurate in gauging what the public wants, and suggests that, as an ideal case, "a woman with five children whose husband gets hit over the head at work and is now a vegetable would be nice."

The poor, of course, represent society's failure, and part of that failure is that so many of the poor end up in prisons that fail. Yet, as recently as last year, a *Times* editorial compared the Neediest to the prisoners at Attica, concluding once again that the poor received their sentence by a judgment of fate. "The pleasure of the season," concluded another editorial last year, "can only be enhanced for those who divert some of their spending from the purchase of holiday goods for those who have much to the spreading of holiday cheer to those who have nothing." It is all so, as the editorial put it, "poignant."

John B. Oakes, editor of the editorial page, concedes that the notion of direct charity is dated. "It's not the starving Armenian, clothe the naked kind of thing any longer, but the Appeal does remain a genuine effort to involve people in the lives of another part of the community," he told me in an interview recently. How, I asked, could this effort be genuine when it makes no connection between the poor and the rich in the community? Oakes said making those connections about the Cases was where the editorial department came in. Then, hearing the Attica editorial blame only fate for poverty, he winced. "The message you're throwing at me does put me back on my heels. I thought we had been stressing the societal aspects. What I've been saying sounds a little lame when I hear that." As for the suggestion about spreading holiday cheer to those less fortunate, he commented, "Aside from the fact that that is a horribly written sentence, is there really anything so terribly wrong with that? Acknowledging the societal aspects doesn't negate that at Christmastime we should get across the idea that you should share. It doesn't mean you can't endorse the old-fashioned Christian and Judaic ideals, does it?"

The Neediest Cases appear each December in the Arts and Leisure section of the Sunday *Times*. Daniel Schwarz, Sunday editor, says there's no particular reason for that location. He reveals with some amusement that David Merrick complains about its placement every year at the stockholders meeting. "But where else would you put it?" Schwarz asks. "Sports? It doesn't belong anywhere. Business and Finance?" He half smiles, waiting for the absurdity of that to sink in. From time to time the men at the *Times* do ask themselves if they are going to have the Neediest forever, but, Schwarz comments, "I don't see how we can ever stop. The momentum is so great. The money from bequests alone brings in a few hundred thousand dollars a year. Short of the day when there is no more private charity, it will continue. It ought to be an anachronism, but it isn't." Schwarz feels there is a responsibility to help the person in need,



something the government, with all its welfare functions, can't always do. "It's not always that simple for a bum to go on welfare," Schwarz dismisses the idea that one should look beyond the individual cases to an examination of the nature of poverty with impatience. They do that elsewhere in the *Times*, he points out, adding that by now people should know about poverty.

Indeed they should. But when they read the *Times* to find out, their knowledge, and subsequently their consciousness, is skewed in favor of the System pretty much as it is. *Times* editors care about the poor, but not enough to ask the really hard questions and base their news policies on the even harder answers that might result from such open-mindedness. One can argue, of course, that like the nation's other news organizations, the *Times* is irrevocably trapped in a system that sustains it and that it is unreasonable to expect any radical departures. One can argue, too, that unlike most of the nation's other news organizations, the *Times* at least makes a serious attempt to cover poverty. Whatever their merits, though, neither argument helps much to focus poverty coverage in a way that might provide some meaningful impact on the problem.

For the most part, poverty and the poor are covered in the *Times* from an institutional point of view that is almost synonymous with welfare. The tangle of governmental legislation and bureaucracies, and their interactions, are reported extensively and often well. Still, there were whole weeks last summer when poverty appeared as a problem residing in Jule Sugarman and the city's Human Resources Administration, which he heads. Most articles resulted from announcements made by the HRA—estimating the effect of welfare cuts on the poor, reporting stricter identification procedures, indictments of welfare cheaters, reactions to mandatory work programs, predictions that all these get-tough policies (not labeled as such) would result in a drop in the numbers on relief. Internal difficulties at HRA surfaced—the firing of consistently tardy workers, and, most extensively, the financial controversy surrounding the resignation of Ted Gross as director of HRA's Youth Services Agency.

A few attempts were made to interpret welfare problems in human terms. Michael Kaufman described the fear and theft that accompany the twice-monthly welfare checks—a horror for welfare workers, the post office and the recipients (August 17). David Shipler wrote that the social security raises were backfiring on the elderly, making some ineligible for welfare and Medicaid benefits (October 3).

Lately, some of the best insights into the welfare side of poverty have been provided by outside writers in the *Times* Sunday magazine. On October 22, Sol Stern took a long look not only at Jule Sugarman's office, but at the local offices where desperation and frustration have been

reaching the point of physical violence. The enormity of the mess came through, and improved plans were seen as possible solutions, though partial and fragile. On Nov. 5, an article on unemployment and underemployment (by William Spring, Bennett Harrison and Thomas Vietorisz) exposed "work ethic" for the insidious code term it is. There aren't enough jobs, and most of the jobs available to the inner city population are so low paying that even when several members of the family work, the combined income doesn't meet official "head-above-water" figures.

Times reporters sometimes provide such insights. But the paper's editorial direction seems stuck with two bad habits: reflexively taking its cues from government and adhering to bankrupt journalistic attitudes about what is newsworthy. As Jule Sugarman points out, "One public official accusing another of doing something wrong, or something happening which offends the public sensibility, such as a welfare family staying at the Waldorf—that's page one. But our efforts at job creation are significant and we're lucky to find that on page 84."

This may sound like bureaucratic sour grapes, but it is not. On Nov. 16, a headline on page one read: WIDE COMMUNITY CRIME TRACED / TO 'SINGLES' IN WELFARE HOTELS. The story, by Max Seigel, jumped inside to page 52 and ran a total of 65 column-inches, not including a picture that showed us the Manhattan Towers Hotel on Broadway where 186 single welfare recipients live and where, according to Sgt. Joseph A. Burns of the 20th Precinct, 15 per cent of the precinct's robberies occur. In his story, Seigel is all over town interviewing cops, politicians and "community leaders." Not one hotel resident, never mind a welfare recipient, makes it into the article. Seigel quotes one of the community leaders as saying "most solutions are too simplistic." That does not deter Seigel. In the next paragraphs he approvingly describes a "solution" put to him by Sgt. Thomas J. Conrad of the 24th Precinct. The Bonjay Hotel, at Broadway and 103rd Street, has managed to cut crime within its walls, says the sergeant, by inviting the police to patrol the hotel and by requiring every applicant for a room to supply his employer's name and address if he has a job, his social security number and references. Sergeant Conrad, writes Seigel, "pointed to the Bonjay's clean lobby and to a neat, courteous clerk behind a counter. 'My flesh used to crawl when I came into the lobby here,' he said. 'and look at it now.'"

This kind of playing up to public sensibility is almost routine at the *Times*. And when the poor are up to something really violent, watch out! When Dr. Wolfgang Friedmann, the distinguished Columbia University law professor, was mugged and murdered in broad daylight not far from the campus last September, the *Times*' news columns bristled with indignation for days—helped along by a stabbing / mugging of another prominent white man, Dr. Selwyn Brody, a psychiatrist who was walking to the Penn Central Station on 125th Street, also during the day. For five days, detailed accounts of the assaults stretched through the *Times* along with Friedmann's obituary, a profile of the neighborhood, and reactions from the academic community and politicians. In short, Outrage—the same kind the *Times* reserves for the periodic crime waves around its skirts in Times Square. Implied, of course, is a double-standard on the value of human life, exactly the double-standard in our Vietnam policy that the *Times* editorial page so rightly condemns. Black and brown people die by violence every week in New York City, but unlike those yellow people thousands of miles away, their stories seldom make page one or any other page.

In an editorial on September 25, the *Times* noted the coverage the events had been receiving from the media and hoped that an understanding of causes might prevent recurrences. It recognized that "the flurry of interest which springs largely from the prominence of the victims may create the impression of an extraordinary event—something to be countered with a little extra policing and personal caution. In fact these highly visible crimes merely prove that nobody is safe from an epidemic that has claimed so many victims." The visible-invisible nature of murders in New York, of course, owes at least something to what the *Times* chooses to report. The editorial went onto say, "The link between slum-bred poverty and violent street crime is easy to establish," but that understanding that doesn't mean we have to accept violence until "urban inequities have been eradicated." Calling for a quick and visible response to violence from the police and courts, it concluded, "Above all, of course, there remains a desperate need to step up the fight against the causes of the urban sickness. Far from being in conflict with each other, the battles against crime and against social injustice are part of the same strategy to save the city."

Of course, many individual reporters and editors on the *Times*—but by no means most—recognize how simple-minded much of the



institution's reaction to poverty is. When David Shipler was covering housing, for example, he was hardly unaware of the fact that every day during the winter people were freezing in apartments. "It's a continuing catastrophe," he says. "Maybe it should be on page one every day, but the news business isn't like that." Yet it can be, as Shipler himself dramatically demonstrated four winters ago. He decided to do a portrait of one tenement, to present the catastrophe and explain it. On January 18, 1969,

For the most part, poverty and the poor are covered in the Times from an institutional point of view that is almost synonymous with welfare.

his piece appeared on the front page of the second section. It was strong: elderly whites, black and Puerto Rican welfare families, junkies who mugged other tenants, a super who pushed drugs—all existing in a crumbling building on West 104th Street without heat or running water. What distinguished the article was its well-documented charge that owning a rent controlled building, letting it rot and then abandoning it is a calculated exercise in profit. Moreover, Shipler reported, it could all be accomplished with impunity. When the owner appeared in court for his fourth failure to provide heat, the judge, who could have given him one year in prison and fined him \$1,000, fined him \$5.

Four years later, the *Times* gives its readers this kind of journalism very rarely. Instead, the news department prefers features on the poor. It would be unfair to characterize these stories as merely patronizing exercises. They are not. But collectively, these pieces do little more than the annual Neediest Cases Appeal. They evoke our sympathies for the down-and-out poor who are powerless and no threat to us. OLD AND ALONE IN NEW YORK CITY, THE CITY'S ITALIAN AMERICAN NEEDY: TOO PROUD TO TAKE THE AID THEY'EARNED, Bowery derelicts in rehabilitation programs, the elderly being forced out of the Nevada Hotel on Broadway. Most of these tugs at our conscience are one-dimensional, good for buttressing a central story which makes an effort to understand the problem, but which is not there. And the play of these stories may be the most telling comment of all. Like Shipler's piece, most appear on the front page of the second section. Features, you understand, not news.

In the end, maybe the best thing the *Times* could do is quantify poverty for its readers. Americans love lists and statistics and the *Times* is expert at this kind of thing. Television and radio listings, four columns; weather, two-and-a-half columns; shipping news, eight column-inches; stock quotations, acres—plus basketball scores, football scores, hockey scores, tennis scores, soccer scores, cricket scores and, of course, race results by the furlong. If it is page-one news when Dow-Jones pushes over 1,000, if the *Times* can find room each day to tell us that "Father of the Bride" is on Channel 7 at 4:30 P.M., that it drizzled yesterday in Buenos Aires, that Stenerud of the Kansas City Chiefs has made 16 of 23 field goals attempted this season, and that Filbert Creme Brulee requires seven egg yolks lightly beaten, then somewhere in the paper there must be room for a daily catalogue of housing violations, evictions, ratbites, muggings, school drop-outs, unemployment statistics, rapes, buildings without heat, prison population, recidivism, etc. And maybe next year, just for a change of pace, the *Times* could skip the Neediest and instead do profiles of the Greediest, those Coodles, Doodles, Foodles and Zoodles in the city who do so much to make poverty possible.

Landslide. . .

continued from 1

a triumph for television. Those of us who write for a living may wish that everyone read *The New York Times* and *The Washington Post*, *The New Republic* and even *The National Review*, but they don't—and they didn't in pre-Cronkite days. The voters I talked with—and I did talk with some at great length—knew exactly what they were doing on November 7. The majority of them knew enough about Watergate etc. and Richard Nixon etc. to be both disappointed and disturbed, but they voted for him because they believed that George McGovern did not represent them, their

families or their perception of America. In the simplest terms they felt that they and America were already home. And, in the end, who are we to criticize them for that?—that's what democracy is.

I think that American national political reporting is pretty goddamn good—and there certainly seems to be enough of it. The failure of the press, the problem it has to cope with now is *governmental* reporting. We woke up one morning this summer with the best and the brightest of American journalism geared up to cover a Nixon campaign and found out there wasn't going to be one. The man was going to run on his record—fair enough—but we really didn't know what his record was. We put our energy and talent into covering politics because it's more fun. The President goes to a customs station in Laredo, Texas, to "dramatize" his commitment to ending the flow of narcotics into the country—and a hundred of the best reporters are there with him, even if they're 100 feet away behind secured service barricades. Is there one reporter in Washington or one in Newark with the smarts, the time and the money to figure out whether the Nixon Administration is really doing anything effective about drugs? Is there one reporter at the Bureau of Immigration figuring out whether it is putting more effort, more money into sealing the borders? Or is sealing the borders an effective way to deal with narcotics flow?

I said political journalism is better than ever and I believe that. Once we covered what candidates said, now we report what they do—at least we report what they and every last one of their coholders think, say and do during a campaign. The time has come to start putting the same kind of energy into reporting what they do in the jobs they have. I suspect that President Nixon would have been glad to expose himself to the people and the White House press corps if that would have diverted public attention from a couple of hundred reporters crawling through the agencies and corners of the Federal Government.

J. ANTHONY LUKAS, contributing editor, (MORE).

Even with the best of press coverage, I'm not sure George McGovern could have beaten an incumbent so adept at making friends and influencing people in Moscow and Peking. Nevertheless, I think the press failed us this year—and, ironically, not because it was unsophisticated but because it was all too sophisticated.

Frank Mankiewicz has half-jokingly put the blame on the "pernicious influence" of Teddy White. This is probably unfair to White, who twelve years ago pioneered a new form of political coverage. But his emphasis on the "nuts and bolts" of politics—organization, financing, media and the like—is now the solid mainstream of American political reporting. And, off this year's record, Mankiewicz is quite right in bemoaning that.

Some months ago, I saw *The New York Times* plan for campaign coverage—an incredibly complex grid of assignments which dealt certain reporters to certain candidates, others to regions and others to those "nuts and bolts." By and large, the *Timesmen* did their jobs well—Ben Franklin on financing, Warren Weaver on the media campaigns, Jack Rosenthal on polls. But, all too often, what got lost in this welter of sophistication was simply—the issues. Following White's lead, the American press has learned how to report the mechanics of politics. But frequently the mechanics squeeze out the substance. And, this year more than any other in recent history, we needed to keep our eyes on the substance.

Clearly, McGovern was not particularly adept at political mechanics. The Eagleton affair, the Salinger screwup, the income subsidy disaster, the squabbling between O'Brien, Hart and Mankiewicz all deserved coverage—and got it *ad nauseum*. The so-called "competence" issue had to be faced and I, like others, developed some real doubts about whether McGovern was competent to be president. But the "decency" issue also had to be faced. Was Richard Nixon decent enough to be president? It was here that the press truly failed us. The *Times'* failure to dig into the Watergate mess—particularly in comparison to the *Washington Post's* splendid investigative reporting—is the most notable example. But there is a far broader failure here. By and large, the press lost sight of the ethical questions, the underlying issue of what kind of leadership we want in the White House.

To me, this is best illustrated by the unprecedented emphasis on polls. To be sure, most of the polls proved remarkably accurate this time. We may never know how much of this was a self-fulfilling prophecy. If you tell Democrats, Jews, union members and young people day after day that they are deserting McGovern, then they may very well do so if they are convinced that everybody else is doing so. But, even assuming that the polls did not inordinately influence the voters, why did most newspapers devote so much space to them? What real function did they serve? It may well be that polls, like the "nuts and bolts" reporting, have achieved a high degree of sophistication. But so what? How does the *Times*

justify playing its own Yankelovich poll as the lead story on page one twice during the campaign. One wonders whether it didn't get the coveted column eight spot precisely because it was a *Times*-commissioned poll. Gallup and Harris—far more established surveys—never got that kind of play.

BY DAVID HALBERSTAM, author of *The Best and the Brightest*.

About 13 years ago, when Tom Wicker and I were both working for *The Nashville Tennessean*, we had an argument about a friend named Creed Black who had just left our paper to become editor of the Savannah, Ga., papers. I was optimistic about Black's chances for making them strong, enlightened journals. But Wicker was more pessimistic—not about Black, it turned out, but about Savannah. He thereupon proclaimed Wicker's Law: that a newspaper cannot be very much better than the community in which it is located. If memory serves, Black left Savannah within a year.

By and large, countries get the press and the politicians they deserve. I have always been uneasy with the kind of proposition suggested here by (MORE): there seems too much purity involved in it, too much almost zealous belief in what something called the Free Press can do. For the most part, I like what Jack Anderson does and I think he is an asset to the country and to his profession; but I am troubled by the weight and importance and, for lack of a better word, *goodness* that he has attached to it in his recent public pronouncements. I think we are obligated to go against the grain, to keep digging, to fight injustice; but I think, too, that we should keep in mind a certain modesty about our inherent value and importance. We can probably make this a somewhat more just society, we can offer the accused a chance to answer accusations, but we are still not very much more pure than the society itself. And we are, particularly as the journalistic institution becomes more powerful, increasingly an extension of the government and society themselves.

All this being said, I think Richard Nixon was re-elected because the country was still desensitized by the war in Vietnam (and thus no matter how well Watergate and ITT were covered it would have made little difference). I think Nixon was re-elected because a majority in the country felt that it could live with him and felt uneasy about McGovern, and I think he was re-elected because he brilliantly stayed in very low profile and visibility in contrast to the supervisibility of Lyndon Johnson and the turbulence of the Johnson years. Too, he was re-elected because the great hidden—and not so hidden—issue of the campaign was fear, and no amount of writing about the superior human qualities of George McGovern, or handwringing over Nixon's unwillingness to come forth as a candidate, could obscure this. The cities are in terrible shape and if the cities split apart, then the Democrats split apart.

Nevertheless, I thought the press often did a weak job on the campaign and, particularly, on the issues that were posed. For example, television, which is the central means of reporting these days, did not know how to cover the fact of our massive bombing of North Vietnam, so it simply did not cover it. Moreover, the press—both television and print—allowed itself a double standard: Nixon, deciding he would not be a candidate, was allowed to be a President; McGovern, behind in the polls, had to go before the people. One incident that I remember seems to symbolize it all. WCBS-TV is covering McGovern walking during a Columbus Day parade in New York. First, the announcer says that McGovern walked but there was Republican criticism of him for doing it. Fair enough. Then a brief shot of McGovern walking. Then a switch to Tricia Nixon Cox in the grandstand who says it is a terrible thing to bring politics into a national celebration like this (the idea of TV interviewing any of McGovern's children after a Nixon or Agnew speech is highly improbable). And then one more switch, this time to Nelson Rockefeller, that great authority on integrity in American life, who admits that he is absolutely shocked and appalled that McGovern would do something as terrible as this, to inject politics into Columbus Day. Clearly the lesson for McGovern was that it would have been better to have stood in bed.

BY JOE MCGINNISS, author of *The Selling of the President 1968*.

It seems to me that inherent in this question is the assumption that people vote for President rationally—an assumption I believe to be false. We want to believe in myth and magic, we long for heroes, we feel an urgent need for exposure to greatness, and it is the President, more than any other figure available to us, who has the capacity to begin to fill these needs. Thus, as Nixon advisor Ray Price wrote in his memorandum before the 1968 campaign, "Potential Presidents are measured against an ideal that's a combination of leading man, God, father, hero, pope, king, with maybe just a touch of the avenging furies thrown in." George McGovern, the dusty, itinerant, prairie-riding Preacher, was utterly lacking in this psychological appeal. Richard Nixon, as an individual, is lacking in it, too,

but after four years in office—four years carefully calculated to make him seem like God, father, hero, pope, king and avenging fury—Richard Nixon the individual dissolved into a majestic, golden haze of monarchy, and it was that to which 61 per cent of the voters responded this fall.

"Conventional political wisdom," I suspect, would discount this view. It is natural for the conventional political reporter, slogging his way across thousands of miles and through hundreds of daily stories, to want to feel that what he writes will make a difference. That it matters. That people care about the daily events of a campaign. The conventional political columnist has an even greater need to reaffirm his relevance and worth, because what does it mean to be Clayton Fritchey or Joseph Kraft, to select a couple at random, or even Tom Wicker or Anthony Lewis, with all the brilliance of their insights, the eloquence of their prose, or the compelling moral vision they sustain so indefatigably, if what they write has no influence on the judgment of a voter? It does mean something, of course, in terms of self-satisfaction and feeling of personal worth to be able to express one's deepest convictions about a Presidential campaign to a literate and influential readership, but the notion that holds that this expression actually has any bearing on the outcome is, I fear, outmoded and misleading.

Thus the press did not fail this fall, because there can be no failure where there is no opportunity for success. But to say then that the public "failed" is the height of moralistic arrogance. It is personality that voters respond to in a Presidential election, to a degree that we are afraid, perhaps ashamed, to admit. To wit, a Louis Harris poll published the day after Richard Nixon's overwhelming popular triumph over the forces of ideological extremism, showed Ted Kennedy, who stands essentially for what George McGovern stood for, leading Spiro Agnew, 51-43 in a trial heat for 1976.

BY TIMOTHY CROUSE, contributing editor, *Rolling Stone*.

"Do you know why we're not uptight about the press and the espionage business?" one White House aide—not Mr. Ziegler—asked rhetorically the other day. "Because we believe that the public believes that the Eastern press really is what Agnew said it was—elitist, anti-Nixon, and ultimately pro-McGovern."

—*The New York Times*, October 19, 1972

It should have come as no surprise to anybody that the press couldn't make the Watergate and all the other scandals "sink in." Nixon managed to do for the press what he had done for Jerry Voorhis and Helen Gahagan Douglas; he put the taint on it. He sent Spiro Agnew out to feed and flatter the great constituency of potential press haters that lay grunting in the Heartland. And he directed Agnew to smear the networks and the nation's great newspapers. When the Watergate deal went down, Nixon had only to wink: "I know they're liars and you know they're liars, so what do we care?"

For nearly four years, Nixon has kept the press up against the wall. Give the Devil his due. It took balls. If the gentlemen of the press had equal balls, they would have stood up to the bullies and perhaps won back the respect of the American people. A few (Pentagon Papers, "The Selling of the Pentagon") stood up. Most didn't. Nixon went for nine months without a press conference, and nothing happened. Ziegler refused to answer crucial questions, and no uprising came. Nixon turned the White House into the most powerful and dishonest advertising agency in America, so that he could get around the reporters, and the reporters hardly made note of the fact. It became clear that the press must stand together as a body and give Nixon an ultimatum: talk to us or we will boycott you and refuse to transmit your tons of propaganda. But even the toughest reporters in the White House blanched at the thought of joint action. "We cannot afford to appear to be forming a cabal against the White House," said one. "The press is not a monolith," said another. "We are individuals."

So when *The Washington Post* revealed the Republicans' plans for political sabotage, the rest of the press followed through with all the solidarity of the French Chamber of Deputies. You could hang around the National Press Club Bar and listen to the tribal elders grumbling happily that the *Post* stories "weren't very substantial" and that Bernstein and Woodward were just a couple of rookies who really weren't up to doing "responsible investigative reporting." The "responsible journalists" in Washington did their best to tear the *Post* stories to shreds, not to build on them.

Well, fuck them. And God bless the reporters on the McGovern plane who at least had the decency to feel guilty and betrayed over the fact that they were tough on McGovern while most of their weary, beaten-down counterparts in the White House were as soft on Nixon as Nixon had been on Rusty Calley. And good luck to the reporter who said, as we flew the last leg of the McGovern campaign: "The White House

knew that we would play fair. They knew that we would play by the rules. And they used it to emasculate us. But what can we do? It's just not in us to fight dirty."

BY ROGER WILKINS, member of the editorial board of
The Washington Post.

The answer is—probably both, but it seems to me that the question and its implications are more important than the answer. The question assumes that such matters as the Watergate and the grain scandals *should* have been decisive factors in the campaign if both the press and the public had been tending effectively to business. That "should" bespeaks a value judgment which many share, but which, according to the returns, is not shared by many millions more. It suggests that the campaign just ended ought to have been a good government campaign, but that the people didn't see it that way and thus avoided "basic decisions."

The people did make a basic decision, but they made it on different assumptions and values than those implied in your question. Their decision was that after the late '60's, with the war, ghetto rebellions, campus disruptions and the fumes of tear gas and marijuana wafting through the land, they feared turmoil more than they abhorred corruption. They did not want big government threatening the *status quo*. So, they gave a whopping majority to the President who promised no change except an end to the war. Then, to limit his government's power and to insure the *status quo*, they split their tickets and gave him a Democratic Congress. It was a decision as understandable as it is shortsighted.

If I am correct, the people opted for what they perceived as immediate safety against the long-term need to build the nation, and therein lies the challenge for the press in the next few years. The public's vision is bound to be fixed on the near term and the press is quite good at dramatizing legitimate immediate fears: crime, campus radicals, threatening youth culture, and the imminence of higher taxes. But, it is the long term erosions that threaten to tear the fatal holes in the side of the ship: the steady decay of the cities, the continued decay in race relations and the attendant decline of the position of the poorest members of minority groups with all the social disruptions that brings with it, and the steady erosion of civil liberties.

Those are the trends and realities that will probably dominate during the next four years, but they are much more difficult to convey in concrete, sustained and effective terms. It is an incredibly difficult challenge for the press, but one which we must meet if we are not to be asking ourselves much more excruciating questions four years from now.

[HELLBOX]

Continued from page 2

were Carl Lindner, president of American Financial Corp., Cincinnati, and his son Carl Jr., shown here with the happy Vice President in Washington." The next day, an *Enquirer*-watcher wrote us a letter that reads, in part:

"The Page 1 picture of the *Enquirer*'s new owner and son shaking hands with Agnew [is] not news on several counts by any stretch of the imagination. Apparently presses were stopped and held up

for quite some time for the picture to arrive by special AP transmission from Washington, and I'm told 300 copies of the paper were then sent back to Washington by private jet."

Brady Black, the *Enquirer*'s vice president and editor, says the AP did, indeed, move the picture, which was taken by Pat Young, a Washington photographer who frequently does work for the *Enquirer*. Young was extremely edgy when we called him. "I'm surprised you found out about the assignment," he said. "It was the most unusual assignment I've had in more than 15 years as a photographer." We asked why, but Young replied that he would "rather not say. It was a very unusual thing. That's why I'm handling it with kid gloves."

Carl Lindner Sr. was not available for comment. But Black said the photo order came from Francis L. Dale, Cincinnati's man of many hats. Besides being the hired president and publisher of the American Financial conglomerate's *Enquirer*, he was chairman of the Committee to Re-Elect The President. Dale was positively testy when we asked him about the assignment. "I have no obligation to give you any information," he said. "It's none of your business whose idea the picture was. I'm not a bit interested in satisfying your curiosity. You're a parasite. You're trying to make the press news, and that's what's destroying the press in this country." Frankly, we can't quite fathom why Dale is so upset, unless he's still smarting from Oakland's World Series victory over the Cincinnati Reds, of which he is president, too.

An 'Agonizing' Decision

When a newspaper endorses a political candidate, only rarely does it give its readers so much as a hint as to how it reached that decision: whether by publisher's fiat, an editor's choice, or agonizing debate within the editorial board. So we were glad to hear that the *Atlanta Constitution* had permitted the Public Broadcasting Service to film the October 12 meeting at which its editorial board apparently decided between Richard Nixon and George McGovern (the choice, as with all but a small minority of American papers this year, was Nixon). The film was shown on the October 25 segment of the PBS series, "Election '72 / A Public Affair," and transmitted to 223 noncommercial stations around the country.

It made impressive viewing: Reg Murphy, the *Constitution*'s editorial page editor; Hall Gulliver, his associate editor, and three other board members gathered around a table in the wood-paneled editorial

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room under a portrait of Ralph McGill, the *Constitution's* late and great editor. And the agonies they went through, wrestling with whether or not they should endorse a Republican presidential candidate for the first time in the paper's history! "It's tough because of the whole tradition of what this newspaper's all about," Murphy mused on the program, "tough because McGill's portrait hanging on that wall is a part of Americana, a part of what the South's all about—and he really does live with us—and because, dammit, he would have been agonizing, like we've been trying to agonize all summer, about what it is that you do."

Then, three days after the program aired, an article by Paul Delaney in *The New York Times* suggested that maybe all that agony hadn't been quite what it seemed. Delaney reported that on September 21, James M. Cox Jr., the head of the Cox newspaper chain, directed his eight papers—of which the *Constitution* is one—to endorse Nixon. According to some Cox editors, it was "the first time the owner has interfered with the editorial policy of the papers." Delaney—who worked three and a half years for a Cox paper in Dayton, Ohio—put it even more forcefully in his lead, saying the papers' "editorial autonomy" had been "scuttled."

The *Times* story stirred repercussions in several cities where Cox owns papers—but nowhere more than in Atlanta. Dozens of letter-writers suggested that the PBS program had been a "charade"—with editors acting out a decision reached by their boss weeks before. So great was the flap that the paper felt compelled to print a disclaimer contending that "the editorial board of the *Constitution* arrived at an honest opinion, independent of outside pressures."

We called Reg Murphy to inquire about this. "I know it's hard for the facts to catch up with a story," he said, "but the simple fact is that the Cox memo had nothing to do with our deliberations that day. I did not see the memo as an irrevocable, irrefutable order. I believe—on the basis of my knowledge of Mr. Cox and the history of his papers—that we would have been free to endorse George McGovern if we had wished to. The fact is that we were already leaning—well before the memo—to Nixon."

Skeptics note that last year Murphy and Gulliver together wrote a book *The Southern Strategy*—which sharply attacked the Nixon Administration for backing away from racial integration in the South. And the same skeptics note that both men have written scathing editorials this year on Nixon's other domestic policies, Watergate and the grain deal. Reg Murphy replies: "That's right. I don't care much for Nixon. Our book was as tough on him as I could make it. But I don't like McGovern, either. He's not my kind of Democrat. My friends were Muskie delegates." Gulliver adds: "Only one of the five people on the board—John Raymond—supported McGovern. By the time we received the memo the question had boiled down to whether we'd support Nixon or nobody at all."

Murphy says only he and Gulliver knew of the memo's existence. Asked why he hadn't told the other three men on the board, he said, "My practice is to state my positions at board meetings without talking about the pressures on me from anybody outside—whether from advertisers, medical societies or labor unions. I don't mean to suggest that I consider a memo from Mr. Cox on the same level as pressures from any other group, but with respect to the board I handle it in just that way."

We asked to see the Cox memo, but were told it was an "internal communication." Murphy said Cox had referred to it as "off-the-cuff notes," but an article in another Cox paper—the *Dayton Journal Herald*—quoted the following key sentence from the memo: "These are a few guideline ideas I feel should apply to any remarks our papers will make in their own words."

Several other Cox editors apparently regarded the memo as a directive. Among these were Sylvan Meyer, editor of the *Miami News*, who told Delaney his paper would endorse the President although "as a newsman, I could not vote for Mr. Nixon;" and George Favre, editor of the *West Palm Beach (Fla.) Post-Times* who resigned shortly after his paper endorsed Nixon (as he tapped out his Nixon endorsement, Favre is reported to have said "It's the best piece of science-fiction I've ever written"). The *Constitution's* editors suggest that other factors may have been involved in Favre's feelings about the *Miami News*. "He lives in Miami, his name appears on the *News'* masthead as publisher and I don't think he could have stood to have McGovern endorsed under his name," Gulliver says. "We have more autonomy up here."

If Delaney's story upset the *Constitution*, it initially enraged the PBS people who feared they had been hoodwinked. But after days of investigation, they decided the board's deliberations had probably been genuine, and said so on the air. Delaney is not impressed by either the *Constitution's* disclaimers or PBS' investigation; "They've all got to save face," he says. And, in retrospect, Reg Murphy regrets having opened up

his editorial meeting to the camera's prying eye. "I'm not sure it was a good idea," he says.

Rizzo the Censor

Philadelphia Mayor Frank Rizzo's war against the press has begun to escalate in the wake of federal charges that he and his police department violated a court injunction prohibiting interference with McGovern supporters during a Nixon campaign appearance at Independence Hall. Forty demonstrators were seized by police October 20, and some were detained for nearly 10 hours, although none was charged with a crime. At a heated press conference following a lengthy *Inquirer* report on the demonstrations, Rizzo, who had said he would sooner vote for Mickey Mouse than for the Senator from South Dakota, accused the press of a pro-McGovern bias. It was not a surprising reaction from a man who has managed to silence two well-known local critics—investigative reporter Greg Walter and radio commentator Taylor Grant.

During last year's mayoralty campaign, Walter wrote a highly unflattering article about Rizzo for *Philadelphia* magazine. The 8,000-word story was never published, not because Rizzo ordered it spiked, but because the magazine's editor decided not to offend his publisher's good friend (MORE—December, 1971). Walter, who had just returned to Philadelphia from a stint at *Life*, quit and went to work for the *Evening Bulletin*. In May, while in the course of investigating police corruption, Walter was charged with the obscure crime of taping telephone conversations between himself and four other persons without prior consent. As far as anyone can determine, this particular offense has never before been prosecuted in Pennsylvania. Moreover, Rizzo admits that police and fire department officials routinely tape incoming calls without the knowledge of the other party. And yet, District Attorney Arlen Specter assigned the case to his assistant, Richard Sprague, which is not unlike sending a B-52 after a cockroach, Sprague having been the prosecutor in such spectacular cases as the Yablonski murder.

Walter had already incurred Specter's animosity by accusing him one year earlier of failing to investigate the disappearance of \$500,000 collected in traffic courts (*Philadelphia*—May, 1972). Then when he became involved in his police investigation, Walter found himself in a crossfire between the district attorney and Attorney General J. Shane Creamer, head of the Pennsylvania Crime Commission, which is also investigating charges of police corruption in Philadelphia. Specter undoubtedly jumped at the chance to embarrass the attorney general since he plans to run for Governor in 1974 against Creamer's boss, Gov. Milton Shapp. (Specter linked both Walter and the crime commission to evidence of entrapment of the police.) It has been noted that Specter's zeal in the Walter case has not always been matched where flagrant violations of law have occurred, such as in the operation of large bingo parlors.

In September, Walter was convicted and fined \$350. The case is now on appeal, and part of the defense will concern the means by which Specter obtained the tapes. Meanwhile, if Specter was hoping to protect his friend Rizzo by thwarting Walter's investigation, he has been successful. The case blew Walter's cover. "I was about one week away from the story," he says. When charges were brought, Walter went on leave of absence from the *Bulletin* at full pay until October, when his one-year verbal contract with the paper terminated.

Taylor Grant, the second victim, is a veteran liberal commentator who broadcast three times a week on WPEN radio under the sponsorship of Philadelphia Gas Works (PGW). His 15-minute commentaries were often critical of Rizzo and of President Nixon, whom the Mayor has called "the greatest President in our country's history." During his September 23 broadcast, Grant mentioned "the way the behavior of Richard Nixon's favorite mayor parallels the behavior of Richard Nixon. You know, the broken campaign promises that pile up every day. The grim fact that both men had been elected for a single reason, the one to stop the war, the other to reduce crime, and both men remain equally insensitive to the killing that goes on and on, whether it be in Quang Tri or on the outskirts of Hanoi or on Spring Garden Street or in Wynnefield."

Those remarks caught the ear of city finance director Lennox Moak, who said later he happened to tune in by accident while driving his car. Moak promptly complained to Edward Hubbard, general manager of PGW. Hubbard replied that Grant's seven-year contract would expire in only two months, but Moak suggested he be dismissed immediately. Hubbard complied, at the same time also dropping the syndicated commentaries of Fulton Lewis, a conservative who had provided "balance."

Moak has insisted he acted independently of Rizzo; nevertheless, the Mayor rejoiced publicly at Grant's departure. "I never heard him," he told a news conference, "but I watched him at Kennedy Plaza when I was a police chief, with the Viet Cong flag; I watched him stand by

while our flag was burned; I watched and listened to Taylor Grant make statements that absolutely . . . made my blood boil. And I would suggest that the next job he gets be with Hanoi, that's XYZO I think the call letters are, or OUT." (Grant denies that he participated in any flag-burning ceremonies.)

Hubbard's compliance has paid off. PGW, a city-owned utility, is managed by United Gas Improvement (UGI), a private company under contract to the city. UGI's contract with the city expires at the end of this year, and Rizzo has made it clear that it will not be renewed. More recently, he has announced that Hubbard, who also holds the post of UGI vice president, will be guaranteed a job under the new management, as will four of his associates.

Despite the fact that Grant's ouster provoked a good deal of anger, and all three dailies supported him editorially, no company has yet come forward with an offer of sponsorship. "I'm disappointed in the response of the corporate community," he says. (Not surprisingly, Grant rejected WPEN's token offer to remain on the air at \$15 a broadcast.) "The implication of the Walter and Grant cases is loud and clear," says an editor at one of the dailies. "Any reporter in Philadelphia who dares even to take an objective look at the Rizzo administration better be prepared for instant and drastic retaliation."

In Secret Session

The most recent issue of *The Masthead*, the official publication of the National Conference of Editorial Writers, has a nice article in it about the importance of forcing public groups to hold open meetings. But when Theo Lippman Jr., an editorial writer for the *Baltimore Sun*, asked for permission to cover NCEW's annual convention for (MORE), he was turned down.

The organization's president, Charles J. Wellner of the *Lockport, New York, Union-Sun & Journal*, said Lippman could sit in on the special critique groups only if he promised not to quote writers by name, or identify them by employer, or specify the object of their criticism. In other words, if an editorial writer for *New York Daily News* said a specific editorial in *The New York Times* was unpersuasive for this and that reason, (MORE) could only report, "One editorial writer said of another paper that one of its editorials was unpersuasive." Period. "Persuasive editorial writing" was one of the critique groups Lippman planned to attend. Also, "The edit page—Who's in charge here? (How independent is your page of the publisher and the owners? How independent should it be?)" and "The page and the public (Are editorial pages operated in the public interest?)"

Wellner told (MORE) that Lippman might be able to appeal the ruling to the Executive Board of NCEW, "if you can get on the agenda." The board was scheduled to meet on the eve of the convention in mid-November. Calls to two members of the board made it pretty clear that there was little chance the meetings would be open, with no restrictions. Clarke M. Thomas of the *Pittsburgh Post-Gazette* said he would vote against such a move. "Having a reporter there would probably be somewhat inhibitory," he said. "Many wouldn't feel free to be critical of their own editor or publisher. It's a question of loyalty to your paper, and in part the fear of losing your job." Calvin Mayne of the *Rochester Times-Union* saw it a little differently. He thought frank criticism of a colleague might cost the object of the criticism his job. "If you say so and so is a lousy editorial writer, that wouldn't be very good for his employment status. I know I might not say, 'this is the most unpersuasive editorial I've ever read,' if I thought his boss were going to read about it later."

Job security for editorial writers is a touchy subject. One member of the NCEW Executive Board, Anson Smith of the *Boston Globe*, was recently transferred to feature writing, and another member, the program chairman for the convention, which was held in Charlotte, recently "left" the *Charlotte Observer*, even though he had no job or job prospect.

Corrections

In our November issue, we reported that Wilfred Sheed's review of W. A. Swanberg's *Luce and His Empire*, written for and then killed by *Life* magazine, would appear with only slight revisions in *The New York Times Sunday Book Review*. Sheed's essay on the book did run in the *Times* November 5; however, it was substantially re-written from the original . . . In the same issue, the Hellbox item dealing with Sonny Kleinfeld, *The Wall Street Journal* reporter who was required to change his byline to N. R. Kleinfeld, gave his first and middle names as Nathan Robert. They are Nathan Richard.

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